DOCUMENT RESUME

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TITLE	Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. (Public Law 100-297, 100th Congress, April 28, 1988).
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ABSTRACT

The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendment of 1988, PL 100-297 of the 100th Congress, was approved April 28, 1988. The bill extends almost every federal elementary and secondary education program through 1993. The Chapter 1 Program, which is the largest federal aid to education program, receives 14 amendments. Other programs added or amended include: (1) the Chapter 2 program, also known as the education block grant; (2) Science and Math Program; (3) Foreign Language Program; (4) Magnet Schools; (5) Women's Educational Equity Program; (6) Gifted and Talented Children Program; (7) Ellender Fellowship Program; (8) Immigrant and Territorial Assistance Programs; (9) Secretary's Fund For Innovation; (10) Drug Education; (11) Bilingual Education; (12) Impact Aid; (13) Adult Education; (14) Star Schools Program; (15) Child Development Program; (16) Statistics; (17) Fund for Improvement; (18) National Assessment; (19) Audits; and (20) Indian Education. An attached press release contains highlights of the H.R. 5 Bill. (RJC)

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PUBLIC LAW 100-297—APR. 28, 1988

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AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988

PS 017596

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Public Law 100-297
100th Congress

An Act

Apr. 28, 1988
[H.R. 5]

To improve elementary and secondary education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988
State and local governments.
20 USC 2701 note.

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SEC. 1001. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) (other than title X of such Act) is amended to read as follows:

20 USC 2701 note.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

20 USC 2701.

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) DECLARATION OF POLICY.—In recognition of—

"(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

"(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

"(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

"(B) expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993; and

"(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

"(b) STATEMENT OF PURPOSE.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Allocations

"SEC. 1005. BASIC GRANTS.

20 USC 2711.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR TERRITORIES.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under this section. The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter.

Appropriation authorization.

"(2) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

"(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(3) SPECIAL ALLOCATION PROCEDURES.—

"(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties or may continue to make such allocations if the agency had the authority to do so under chapter 1 of the Education Consolidation and Improvement Act of 1981. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

"(c) CHILDREN TO BE COUNTED.—

Disadvantaged persons.

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—

"(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per pupil expenditure in the State in which the agency is located, or (B) 120 percent of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F. Such agreement shall consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies. If, in the capacity as a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary shall comply with section 1451 of this Act and with section 553 of title 5 of the United States Code, relating to administrative procedure, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

Contracts.

"(e) State Minimum.—(1) For any fiscal year for which—

"(A) sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988; and

"(B)(i) sums available for the purpose of section 1006 equal or exceed $400,000,000, or

"(ii) sums available for the purpose of section 1005 equal or exceed amounts appropriated for such purpose in fiscal year 1988 by $700,000,000,

the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988.

"(3)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

Effective date. Termination date.

"(g) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

Disadvantaged persons. 20 USC 2712.

"SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000,

whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

"(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

"(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of clauses (i) and (ii) of paragraph (1)(A). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

"(B) In counties where no local educational agency meets the criteria of clause (i) or (ii) of paragraph (1)(A), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

"(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

"(i) in accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

"(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

"(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of clauses (i) and (ii) of paragraph (1)(A), but are otherwise ineligible.

"(b) PAYMENTS; USE OF FUNDS.—

"(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

"(c) RESERVATION OF FUNDS.—

"(1) For any fiscal year for which amounts appropriated for part A of this chapter exceed $3,900,000,000, the amounts specified in paragraph (2) of this subsection shall be available to carry out this section.

"(2)(A) The first $400,000,000 in excess of $3,900,000,000 appropriated for part A of this chapter in any fiscal year shall be available to carry out this section.

"(B) Whenever the amounts appropriated for part A exceed $4,300,000,000 in any fiscal year, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section, except that no State shall, as a result of implementation of paragraph (2) of this subsection, receive less under section 1005 than it received for the previous fiscal year under such section or under section 554(a)(1)(A) of the Education Consolidation and Improvement Act of 1981.

"(d) RATABLE REDUCTION RULE.—If the sums available under subsection (c) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"Subpart 2—Basic Program Requirements

"SEC. 1011. USES OF FUNDS. 20 USC 2721.

"(a) PROGRAM DESCRIPTION.—

"(1) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

"(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

"(3) State and local educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

"(b) INNOVATION PROJECTS.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(1) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(2) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan for a period not to exceed 2 years;

"(3) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(4) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

"(5) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(6) encouraging the involvement of community and private sector resources (including fiscal resources) in meeting the needs of eligible children; and

"(7) assistance by local educational agencies of schools identified under section 1021(b).

20 USC 2722.

"SEC. 1012. ASSURANCES AND APPLICATIONS.

"(a) State Educational Agency Assurances.—Any State desiring to participate under this chapter shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in section 435(b)(2) and (b)(5) of the General Education Provisions Act relating to fiscal control and fund accounting procedures;

"(2) will carry out the activities required under this chapter with regard to evaluation and school program improvement;

"(3) has on file a program improvement plan that meets the requirements of section 1020; and

"(4) will ensure that its local educational agencies and State agencies receiving funds under this chapter comply with all applicable statutory and regulatory provisions pertaining to this chapter.

Such assurances shall remain in effect for the duration of participation under this chapter.

Grants.

"(b) Local Applications.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the procedure to be used under section 1014(b) to assess students' needs and establish program goals, describes the programs and projects to be conducted with such assistance for a period of not more than 3 years, and describes the desired outcomes for eligible children, in terms of basic and more advanced skills that all children are expected to master, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency and developed in consultation with teachers and parents.

"(c) Local Assurances.—Such application shall provide assurance that the programs and projects described—

"(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

"(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017;

"(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program; and

Handicapped persons.

"(4) in the case of participating students who are also limited English proficient or are handicapped, provide maximum coordination between services provided under this chapter and services provided to address children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

"SEC. 1013. ELIGIBLE SCHOOLS.

Disadvantaged persons.
20 USC 2723.

"(a) General Provisions.—

"(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest within each grade span grouping or for the entire local educational agency, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence of this paragraph.

"(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all school attendance areas within a grade span grouping or for the entire local educational agency, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

"(b) Local Educational Agency Discretion.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

"(1) A local educational agency may designate as eligible and serve all of its attendance areas within a grade span grouping or in the entire local educational agency if the percentage of children from low-income families in each attendance area of the agency is within 5 percentage points of the average percentage of such children within a grade span grouping or for the entire local educational agency.

"(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency eligible under subsection (a) in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year if such attendance areas qualify for such amounts under subsection (c)(1).

"(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of deprived children from low-income families in project areas served by the local educational agency.

"(4) Funds received under this part may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(5) If an eligible school attendance area or eligible school was so designated and served in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify as eligible under such subsection in such additional year.

"(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this part, except that (A) the number of children attending private elementary and secondary schools who receive services under this part shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this part shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(c) ALLOCATIONS.—

"(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this part among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

"(2) Children in eligible schools, who receive services under this part and subsequently become ineligible due to improved academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

"SEC. 1014. ELIGIBLE CHILDREN.

Disadvantaged persons.
20 USC 2724.

"(a) General Provisions.—

"(1) Except as provided in subsections (c) and (d) of this section and section 1015, a local educational agency shall use funds received under this part for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

"(2) The eligible population for services under this part are—

"(A) those children up to age 21 who are entitled to a free public education through grade 12, and

"(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

"(b) Assessment of Educational Need.—A local educational agency may receive funds under this part only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.

"(c) Local Educational Agency Discretion.—(1) Educationally deprived children who begin participation in a program or project assisted under this part, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this part, may, if the local agency so determines, continue to participate in a program or project funded under this part for the duration of that same school year.

"(2) In providing services under this part a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this part.

"(3) A child who, in the previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this part while continuing to be educationally deprived for a maximum of 2 additional years.

"(d) Special Rules.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this part, if they have needs stemming from educational deprivation and not related solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this part. Funds under this part may not be used to provide services that are otherwise required by law to be made available to such children.

"(2) A student who at any time in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

Disadvantaged persons.
20 USC 2725.

"SEC. 1015. SCHOOLWIDE PROJECTS.

"(a) Use of Funds for Schoolwide Projects.—In the case of any school serving an attendance area that is eligible to receive services under this part and in which, for the first year of the 3-year period of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this part to upgrade the entire educational program in that school if the requirements of subsections (b), (c), (d), and (e) are met.

"(b) Designation of Schools.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

"(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

"(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

"(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

"(D) describes the specific uses of funds under this part as part of that program; and

"(E) describes how the school will move to implement an effective schools program as defined in section 1471, if appropriate;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

"(3) the plan provides for consultation among individuals described in paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (e);

"(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

"(5) the plan includes procedures for measuring progress, as required by subsection (e), and describes the particular measures to be used; and

"(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

"(c) Approval of Plan; Operation of Project.—

"(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this part with respect to the commingling of funds provided under this chapter with funds available for regular programs;

"(B) shall use funds received under this part only to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a schoolwide project under paragraph (1);

"(C) shall comply with the provisions of section 1018(c); and

"(D) may not be required to identify particular children as being eligible to participate in projects assisted under this part but shall identify educationally deprived children for purposes of subsections (b) and (e) of this section.

"(d) Use of Funds.—In addition to uses under section 1011, funds may be used in schoolwide projects for—

"(1) planning and implementing effective schools programs, and

"(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended schoolday programs.

"(e) Accountability.—

"(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of 3 years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional 3-year period.

"(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of educationally deprived children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of educationally deprived children in that school exceeds the average achievement of such children in that school in the 3 fiscal years prior to initiation of the schoolwide project.

"(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels over the 3-year schoolwide project period, compared with the 3-year period immediately preceding the schoolwide project, do not decline.

Public information.

"(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

20 USC 2726.

"SEC. 1016. PARENTAL INVOLVEMENT.

"(a) FINDINGS; GENERAL REQUIREMENT.—

"(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

"(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activities, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

"(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

"(b) GOALS OF PARENTAL INVOLVEMENT.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating children, develop programs, activities, and procedures which have the following goals—

"(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

"(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

"(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students;

"(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children;

"(5) to provide a comprehensive range of opportunities for parents to become informed, in a timely way, about how the program will be designed, operated, and evaluated, allowing opportunities for parental participation, so that parents and educators can work together to achieve the program's objectives; and

"(6) to ensure opportunities, to the extent practicable, for the full participation of parents who lack literacy skills or whose native language is not English.

"(c) MECHANISMS FOR PARENTAL INVOLVEMENT.—

"(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

"(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all such parents are given an opportunity to participate.

Reports.

"(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and, to the extent practical, hold a parent-teacher conference with the parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter.

"(4) Each local educational agency shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

"(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children.

"(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

"(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

"(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided, to the extent practicable, in a language and form which the parents understand.

Disadvantaged persons.
20 USC 2727.

"SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011(a), 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BYPASS PROVISION.—

"(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

"(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

"(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

"(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965, as in effect prior to July 1, 1988, or chapter 1 of the Education Consolidation and Improvement Act of 1981 shall remain in effect to the extent consistent with the purposes of this chapter.

"(d) CAPITAL EXPENSES.—

"(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agencies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter.

"(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

"(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

Appropriation authorization.

"(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, $40,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected.

"(4) For the purposes of this subsection, the term 'capital expenses' is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (including but not limited to mobile educational units and leasing of neutral sites or space), insurance and maintenance costs, transportation, and other comparable goods and services.

20 USC 2728.

"SEC. 1018. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) Each State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

"(c) COMPARABILITY OF SERVICES.—

"(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

"(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

"(i) a districtwide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

"(3) Each educational agency shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. Each State educational agency shall monitor the compliance of local educational agencies within the States with respect to the requirements of this subsection. Records.

"(4) Each local educational agency with not more than 1 building for each grade span shall not be subject to the provisions of this subsection.

"(5) Each local educational agency which is found to be out of compliance with this subsection shall be subject to withholding or repayment of funds only to the amount or percentage by which the local educational agency has failed to comply.

Disadvantaged persons.

"(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

"(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency or a State agency operating a program under part D of this chapter may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children after prior determination pursuant to paragraphs (3) and (4) of this subsection that such programs meet the requirements of subparagraph (B).

"(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

"(i) all children participating in the program are educationally deprived,

"(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

Records.

"(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and

"(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

"(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

Minorities.

"(i) bilingual education for children of limited English proficiency,

Handicapped persons.

"(ii) special education for handicapped children, and

"(iii) certain State phase-in programs as described in subparagraph (B).

"(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

"(i) the program is authorized and governed specifically by the provisions of State law;

"(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(v) the program will benefit all children in a particular school or grade-span within a school;

"(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

"(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

"(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determination. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

"(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"SEC. 1019. EVALUATIONS. 20 USC 2729.

"(a) Local Evaluation.—Each local educational agency shall—

"(1) evaluate the effectiveness of programs assisted under this part, in accordance with national standards developed according to section 1435, at least once every 3 years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

"(2) submit such evaluation results to the State educational agency at least once during each 3-year application cycle;

"(3) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year.

"(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

Public information.

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1107(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every 2 years, submit that evaluation to the Secretary and make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

Handicapped persons.

"(3) collect data on the race, age, gender, and number of children with handicapping conditions served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

"(c) SPECIAL CONDITION.—Projects funded under this part that serve only preschool, kindergarten, or first grade students or students in such grade levels who are included in projects serving children above such grade levels shall not be subject to the requirements of subsection (a).

20 USC 2730.

"SEC. 1020. STATE EDUCATIONAL PROGRAM IMPROVEMENT PLAN.

"(a) PLAN REQUIREMENTS.—A State educational agency which receives funds under part A, part C, and part E of this chapter shall develop, in consultation with a committee of practitioners constituted pursuant to section 1451(b) of this chapter, a plan to ensure implementation of the provisions of this section and section 1021. Each such plan shall contain, but shall not be limited to—

"(1) the objective measures and standards the State educational agency and other agencies receiving funds under part A, part C, and part E of this chapter will use to assess aggregate performance pursuant to section 1021, and may include implementation of section 1019;

"(2) the means the State educational agency will use to develop joint plans with local educational agencies which have identified, pursuant to section 1021(b), schools in need of program improvement to attain satisfactory student progress, the timetable for developing and implementing such plans (within parameters defined pursuant to section 1431) and the program improvement assistance that will be provided to such schools pursuant to section 1021. Such program improvement assistance may include, but shall not be limited to, training and retraining of personnel, development of curricula that has shown promise in similar schools, replication of promising practices in effective schools models, improving coordination between programs assisted under this chapter and the regular school program, and the development of innovative strategies to enhance parental involvement.

"(b) DISSEMINATION AND AVAILABILITY OF PLAN.—(1) The State educational agency shall disseminate the plan developed under this subsection to all local educational agencies and other State agencies receiving funds under this chapter.

"(2) The State educational program improvement plan shall be available at the State educational agency for inspection by the

Secretary and may be amended by the State educational agency after consultation with a committee of practitioners when necessary.

"(c) AVAILABILITY OF FUNDS.—In any fiscal year for which appropriations are made pursuant to section 1405, the State educational agency shall fully implement the program improvement activities described in sections 1020 and 1021. In any fiscal year for which appropriations are not made, the State educational agency shall conduct, at a minimum, the activities required under section 1021(d), and other program improvement activities to the extent practicable.

"SEC. 1021. PROGRAM IMPROVEMENT.

20 USC 2731.

"(a) LOCAL REVIEW.—Each local educational agency shall—

"(1) conduct an annual review of the program's effectiveness in improving student performance for which purpose the local educational agency shall use outcomes developed pursuant to section 1012 and subsection (b) of this section, and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

"(2) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year;

"(3) use the results of such review and of evaluation pursuant to section 1019 in program improvement efforts required by section 1021(b); and

"(4) annually assess through consultation with parents, the effectiveness of the parental involvement program and determine what action needs to be taken, if any, to increase parental participation.

"(b) SCHOOL PROGRAM IMPROVEMENT.—(1) With respect to each school which does not show substantial progress toward meeting the desired outcomes described in the local educational agency's application under section 1012(a) or shows no improvement or a decline in aggregate performance of children served under this chapter for one school year as assessed by measures developed pursuant to section 1019(a) or subsection (a), pursuant to the program improvement timetable developed under sections 1020 and 1431, the local educational agency shall—

"(A) develop and implement in coordination with such school a plan for program improvement which shall describe how such agency will identify and modify programs funded under this chapter for schools and children pursuant to this section and which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children, including—

"(i) a description of educational strategies designed to achieve the stated program outcomes or to otherwise improve the performance and meet the needs of eligible children; and

"(ii) a description of the resources, and how such resources will be applied, to carry out the strategies selected, including, as appropriate, qualified personnel, inservice training, curriculum materials, equipment, and physical facilities; and, where appropriate—

"(I) technical assistance;

"(II) alternative curriculum that has shown promise in similar schools;

"(III) improving coordination between part A and part C of this chapter and the regular school program;

"(IV) evaluation of parent involvement;

"(V) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter; and

"(VI) other measures selected by the local educational agency; and

"(B) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

"(2) A school which has 10 or fewer students served during an entire program year shall not be subject to the requirements of this subsection.

"(c) DISCRETIONARY ASSISTANCE.—The local educational agency may apply to the State educational agency for program improvement assistance funds authorized under section 1405.

"(d) STATE ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES.—(1) If after the locally developed program improvement plan shall have been in effect according to the timetable established under sections 1020 and 1431, the aggregate performance of children served under this chapter in a school does not meet the standards stated in subsections (a) and (b), the local educational agency shall, with the State educational agency, and in consultation with school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved performance is sustained over a period of more than 1 year.

"(2) The State educational agency shall ensure that program improvement assistance is provided to each school identified under paragraph (1).

"(e) LOCAL CONDITIONS.—The local educational agency and the State educational agency, in performing their responsibilities under this section, shall take into consideration—

"(1) the mobility of the student population,

"(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

"(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter,

"(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter, and

"(5) whether a change in the review cycle pursuant to section 1019 or 1021(a)(1) or in the measurement instrument used or other measure-related phenomena has rendered results invalid or unreliable for that particular year.

"(f) STUDENT PROGRAM IMPROVEMENT.—On the basis of the evaluations and reviews under sections 1019(a)(1) and 1021(a)(1), each local educational agency shall—

"(1) identify students who have been served for a program year and have not met the standards stated in subsections (a) and (b),

"(2) consider modifications in the program offered to better serve students so identified, and

"(3) conduct a thorough assessment of the educational needs of students who remain in the program after 2 consecutive years of participation and have not met the standards stated in subsection (a).

"(g) **Program Improvement Assistance.**—In carrying out the program improvement and student improvement activities required in subsections (a), (b), (c), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers and appropriate regional rural assistance programs established by section 1456 to the full extent such resources are available.

"(h) **Further Action.**—If the State educational agency finds that, consistent with the program improvement timetable established under sections 1020 and 1431, after one year under the joint plan developed pursuant to subsection (d), including services in accordance with section 1017, a school which continues to fall below the standards for improvement stated in subsections (a) and (b) with regard to the aggregate performance of children served under part A, part C, and part E of this chapter, the State educational agency shall, with the local educational agency, review the joint plan and make revisions which are designed to improve performance, and continue to do so each consecutive year until such performance is sustained over a period of more than one year. Nothing in this section or section 1020 shall be construed to give the State any authority concerning the educational program of a local educational agency that does not otherwise exist under State law.

"(i) **Mutual Agreement.**—Before any joint plan may be implemented under subsection (d) and subsection (h) both the local educational agency and State educational agency must approve such plan.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SEC. 1051. STATEMENT OF PURPOSE.

20 USC 2741.

"It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as 'Even Start'. The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

"SEC. 1052. PROGRAM AUTHORIZATION.

20 USC 2742.

"(a) **Grants by the Secretary.**—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part which are not inconsistent with the provisions of this subsection, to make grants to local educational agencies or consortia of such agencies to carry out Even Start programs.

"(b) **State Grant Program.**—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States from allocations under section 1053 to enable States to carry out Even Start programs.

"(c) **Definition.**—For the purpose of this part, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1053. ALLOCATION.

20 USC 2743.

"(a) **Reservation for Migrant Programs.**—The Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) STATE ALLOCATION.—Except as provided in section 1052(a) and subsection (c) of this section, each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated under section 1052(b) in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) Subject to the provisions of paragraph (2), no State shall receive less than the greater of—

"(A) one-half of one percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

20 USC 2744.

"SEC. 1054. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out the program under this part, funds made available to local educational agencies, in collaboration with, where appropriate, institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations, shall be used to pay the Federal share of the cost of providing family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) PROGRAM ELEMENTS.—Each program assisted under this part shall include—

"(1) the identification and recruitment of eligible children;

"(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

"(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided for under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in the program authorized by this part;

"(4) the establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

"(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

"(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

"(7) coordination of programs assisted under this part with programs assisted under this chapter and any relevant programs under chapter 2 of this title, the Adult Education Act, the Education of the Handicapped Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

"(c) Federal Share Limitation.—The Federal share under this part may be—

"(1) not more than 90 percent of the total cost of the program in the first year the local educational agency receives assistance under this part,

"(2) 80 percent in the second such year,

"(3) 70 percent in the third such year, and

"(4) 60 percent in the fourth and any subsequent such year.

Funds may not be used for indirect costs. The remaining cost may be obtained from any source other than funds made available for programs under this title.

"SEC. 1055. ELIGIBLE PARTICIPANTS.

20 USC 2745.

"Eligible participants shall be—

"(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

"(2) the child or children (aged 1 to 7, inclusive), of any individual under paragraph (1), who reside in a school attendance area designated for participation in programs under part A.

"SEC. 1056. APPLICATIONS.

20 USC 2746.

Grants.

"(a) Submission.—To be eligible to receive a grant under this part a local educational agency shall submit an application to the Secretary under section 1052(a) and to the State educational agency under section 1052(b) in such form and containing or accompanied by such information as the Secretary or the State educational agency, as the case may be, may require.

"(b) Required Documentation.—Such application shall include documentation that the local educational agency has the qualified personnel required—

"(1) to develop, administer, and implement the program required by this part, and

"(2) to provide special training necessary to prepare staff for the program.

"(c) PLAN.—Such application shall also include a plan of operation for the program which includes—

"(1) a description of the program goals;

"(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

"(3) a description of the population to be served and an estimate of the number of participants;

"(4) if appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, private elementary schools, or other appropriate nonprofit organizations in carrying out the program for which assistance is sought;

"(5) a statement of the methods which will be used—

"(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

Disadvantaged persons. Handicapped persons.

"(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

"(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

"(6) a description of the methods by which the applicant will coordinate programs under this part with programs under chapter 1 and chapter 2, where appropriate, of this title, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

20 USC 2747.

"SEC. 1057. AWARD OF GRANTS.

"(a) SELECTION PROCESS.—The Secretary or each State educational agency, as the case may be, shall appoint a review panel that will award grants on the basis of proposals which—

"(1) are most likely to be successful in meeting the goals of this part;

"(2) serve the greatest percentage of eligible children and parents as described in section 1055;

"(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(4) submit budgets which appear reasonable, given the scope of the proposal;

"(5) demonstrate the local educational agency's ability to provide additional funding under section 1054(c);

"(6) are representative of urban and rural regions of the State or of the United States, as the case may be; and

"(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

"(b) REVIEW PANEL.—A review panel shall, to the extent practicable, consist of 7 members as follows:

"(1) an early childhood education professional;

"(2) an adult education professional;

"(3) a representative of parent-child education organizations;

"(4) a representative of community-based literacy organizations;

"(5) a member of a local board of education;

"(6) a representative of business and industry with a commitment to education; and

"(7) an individual involved in the implementation of programs under this chapter within the State.

The panel shall contain members described in paragraphs (1), (2), (6), and (7).

"(c) Equitable Distribution of Assistance.—In approving grants under this part under section 1052(a), the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

Urban areas.
Rural areas.

"(d) Duration.—(1) Grants may be awarded for a period not to exceed 4 years. In any application from a local educational agency for a grant to continue a project for the second, third, or fourth fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary or the State educational agency, as the case may be, shall review the progress being made toward meeting the objectives of the project. The Secretary or the State educational agency, as the case may be, may refuse to award a grant if the Secretary or such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(2) The Secretary shall establish criteria for carrying out the provisions of paragraph (1) in the transition fiscal year whenever the provisions of section 1052(b) apply to authorized State grant programs.

"SEC. 1058. EVALUATION.

20 USC 2748.

"(a) Independent Annual Evaluation.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) services to special populations;

"(2) adult education services;

"(3) parent training;

"(4) home-based programs involving parents and children,

"(5) coordination with related programs; and

"(6) training of related personnel in appropriate skill areas.

"(b) Criteria.—

"(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(c) Report to Congress and Dissemination.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1993. The annual evaluations shall be submitted to the National Diffusion Network for consideration for possible dissemination.

20 USC 2749.

"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purposes of this part $50,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

Disadvantaged persons.
20 USC 2761.

"SEC. 1101. PURPOSE.

"It is the purpose of this subpart to provide additional assistance to local educational agencies with high concentrations of low-income children, low-achieving children, or school dropouts to improve the achievement of educationally disadvantaged children enrolled in secondary schools of such agencies, and to reduce the number of youths who do not complete their elementary and secondary education.

20 USC 2762.

"SEC. 1102. ALLOCATION.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—From the amount appropriated under section 1108 for the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

Grants.

"(b) STATE ALLOCATION.—Except as provided in subsection (c), each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) No State shall receive less than the greater of—

"(A) one-quarter of 1 percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATION.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

"(1) the eligibility of such agency for funds under section 1005 of this Act; and

"(2) the criteria described in section 1105.

Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.

"(e) STATE ADMINISTRATION.—A State may reserve not more than 5 percent of the amounts available under this part for any fiscal year for State administrative costs.

"SEC. 1103. USES OF FUNDS.

20 USC 2763.

"(a) GENERAL RULE.—A local educational agency may use—

"(1) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b), and

"(2) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).

"(b) BASIC SKILLS FOR SECONDARY SCHOOLS.—Funds made available under this subpart may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches for—

"(A) surmounting barriers that make secondary school programs under this subpart difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) courses leading to successful completion of the general education development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, preemployment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other student services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subpart and under part A, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(c) Uses of Funds for School Dropout Prevention and Reentry Projects.—Funds made available under this subsection may be used for—

"(1) effective programs which identify potential student dropouts and prevent them from dropping out of elementary and secondary school;

"(2) effective programs which identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective programs for early intervention designed to identify at-risk students in elementary and early secondary schools;

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school;

"(5) school dropout programs which include coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(6) projects which are carried out in consortia with a community-based organization, any nonprofit private organization, institution of higher education, State educational agency, State and local public agencies, private industry councils (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station, or community-based organization; or

"(7) any of the activities described in section 6005 or 6006 of title VI.

"(d) Limitation.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

20 USC 2764.

"SEC. 1104. APPLICATIONS.

"(a) Application Required.—Any local educational agency which desires to receive a grant under this part shall submit to the State educational agency an application which describes the program to be supported with funds under this part and complies with the provisions of subsection (b).

"(b) Contents of Application.—Each application submitted under subsection (a) shall—

"(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, school dropouts, and potential school dropouts;

"(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this part);

"(3) assure that the programs will be conducted in schools with the greatest need for assistance, in terms of achievement levels, poverty rates, or school dropout rates;

"(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part;

"(5) assure that services will be provided under this part, as appropriate, to special populations, such as individuals with limited English proficiency and individuals with handicaps; Disadvantaged persons. Handicapped persons.

"(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

"(7) describe the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

"(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

"(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part; and

"(10) provide such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

"(c) Special Rule.—If the Secretary determines that a local educational agency has substantially failed to comply with paragraph (9) (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students.

"(d) Duration of Grants.—Grants may be awarded for a period of 3 years.

"SEC. 1105. AWARD OF GRANTS.

20 USC 2765.

"Each State educational agency shall award grants to local educational agencies within the State which—

"(1) demonstrate the greatest need for services provided under this part based on their numbers of low-income children, numbers of low-achieving children, or numbers of school dropouts; Disadvantaged persons.

"(2) are representative of urban and rural regions of the State; Urban areas. Rural areas.

"(3) offer innovative approaches to improving achievement among eligible youth or offer approaches which show promise for replication and dissemination; and

"(4) offer innovative approaches to reducing the number of school dropouts.

20 USC 2766.

"SEC. 1106. FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.

"(a) GENERAL RULE.—(1) The provisions of subsections (a) through (d) of section 1018 of this Act shall apply to the program authorized by this part.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant may be used for local administrative costs.

"(3) COORDINATION AND DISSEMINATION.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(b) SPECIAL RULE.—(1) Each local educational agency shall use funds under this part to supplement the level of funds under this chapter that are used for secondary school programs.

"(2) In order to comply with paragraph (1), any local educational agency which operates secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which is operating secondary school basic skills programs under this part shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

20 USC 2767.

"SEC. 1107. EVALUATION.

"The provisions of sections 1019 and 1021 shall apply to local educational agencies receiving grants under this part.

20 USC 2768.

"SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for the fiscal year 1990, $450,000,000 for the fiscal year 1991, $500,000,000 for the fiscal year 1992, and $550,000,000 for the fiscal year 1993 to carry out this part.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

20 USC 2781.

"SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT.

"(a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen which meet the requirements of section 1202.

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than the Commonwealth of Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as the Secretary may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States may not exceed a standard error rate of 5 percent.

"(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

Puerto Rico.

"(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

20 USC 2782.

"SEC. 1202. PROGRAM REQUIREMENTS.

"(a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

Records.

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Education of the Handicapped Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

"(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen; and

"(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker (including migratory agricultural dairy workers) or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of 5 years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

"(c) DEFINITIONS.—The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 (as in effect on April 30, 1985). No additional definition of 'migratory agricultural worker' or 'migratory fisherman' may be applied to the provisions of this subpart.

"(d) BYPASS PROVISION.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in 1 or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

20 USC 2783.

"SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

Grants.
Contracts.

"(a) ACTIVITIES AUTHORIZED.—(1) The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies (in consultation with and with the approval of the States) for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant issued under this paragraph shall not exceed 3 years for its stated purpose.

"(2)(A) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including individualized education programs approved under the Education of the Handicapped Act).

"(B) Except as provided in subparagraph (C), for the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year.

"(C) Beginning on July 1, 1992, and every 4 years thereafter, the Secretary shall conduct a competition to award such contract. Effective date.

"(D) No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

"(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $6,000,000 nor more than 5 percent of the amount appropriated.

"Subpart 2—Programs for Handicapped Children

"SEC. 1221. AMOUNT AND ELIGIBILITY. 20 USC 2791.

"(a) ELIGIBILITY FOR GRANT.—(1) A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year for programs (as defined in sections 1222 and 1223) for handicapped children (as defined in paragraph (2)(B)).

"(2) For the purpose of this subpart—

"(A) 'children' includes infants and toddlers described in part H of the Education of the Handicapped Act, as appropriate, and

"(B) 'handicapped children' means children who by reason of their handicap require special education and related services, or in the case of infants and toddlers, require early intervention services and who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities.

"(b) STATE EDUCATIONAL AGENCY APPLICATION.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary which provides assurances that— Grants.

"(1) all handicapped children (other than handicapped infants and toddlers) in the State participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) programs and projects receiving assistance under this subpart are administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act, including the monitoring by such agency of compliance under paragraph (1);

"(3) programs and projects under this subpart will be coordinated with services under the Education of the Handicapped Act;

"(4) for fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this subpart through the State office responsible for administering part B of the Education of the Handicapped Act;

Reports.

"(5) the agency will report annually to the Secretary—

"(A) the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

"(B) the number of children served under this subpart in each of the educational placements described in section 618(b)(2) of the Education of the Handicapped Act (and will report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs); and

"(C) on the uses of funds and the allocation of such funds for such uses under this subpart; and

Reports.

"(6) the agency will report to the Secretary such other information as the Secretary may reasonably request.

"(c) AMOUNT OF GRANT.—(1) Except as provided in subsection (e) and section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of handicapped children, from birth through 21, enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants, toddlers and children operated or supported by a State agency which—

"(i) is directly responsible for providing free public education for handicapped children (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency); or

"(ii) is directly responsible for providing early intervention services for handicapped infants or toddlers (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency),

in the most recent fiscal year for which satisfactory data are available. The State educational agency shall distribute such funds to the appropriate State agency on the basis of the December 1 child count by distributing an equal amount for each child counted.

Grants. Puerto Rico.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. Except as provided in subsection (e), a grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In any case in which a child described in sections 1225(1)(A) and 1225(1)(B)(i) leaves an educational program for handicapped children operated or supported by a State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—

"(1) the child was receiving and continues to receive a free appropriate public education; and

"(2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State educational agency under this section which are attributable to such child, to be used for the purpose set forth in section 1223.

"(e) SPECIAL REQUIREMENT.—The State educational agency may count handicapped children aged 3 to 5, inclusive, in a State only if such State is eligible for a grant under section 619 of the Education of the Handicapped Act.

"SEC. 1222. PROGRAM REQUIREMENTS.

20 USC 2792.

"(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children (other than handicapped infants and toddlers) or the early intervention needs of handicapped infants and toddlers. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

"(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children (other than handicapped infants and toddlers) or early intervention services for handicapped infants and toddlers.

"(c) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children served.

20 USC 2793.

"SEC. 1223. USES OF FUNDS.

"(a) GENERAL RULE.—Programs, and projects authorized under this subpart may include, but are not limited to—

"(1) services provided in early intervention, preschool, elementary, secondary, and transition programs;

"(2) acquisition of equipment and instructional materials;

"(3) employment of special personnel;

"(4) training and employment of education aides;

"(5) training in the use and provision of assistive devices and other specialized equipment;

"(6) training of teachers and other personnel;

"(7) training of parents of handicapped children;

"(8) training of nonhandicapped children to facilitate their participation with handicapped children in joint activities;

"(9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living;

"(10) outreach activities to identify and involve handicapped children and their families more fully in a wide range of educational and recreational activities in their communities; and

"(11) planning for, evaluation of, and dissemination of information regarding such programs and projects assisted under this subpart.

"(b) PROHIBITION.—Programs and projects authorized under this subpart may not include the construction of facilities.

20 USC 2794.

"SEC. 1224. SERVICE AND PROGRAM APPLICATIONS.

Grants.

"(a) APPLICATION REQUIRED.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than 3 years, and each such application has been approved by the State educational agency. Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsections (b) and (c).

"(b) REQUIREMENTS.—At a minimum each such application shall—

"(1) indicate the number of children to be served;

"(2) specify the number of children to be served for each disability and age category as described in part B of the Education of the Handicapped Act;

"(3) describe the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or program;

"(4) specify the services to be provided with the funds furnished under this subpart; and

"(5) include other information the Secretary or State educational agency may request.

"(c) APPLICATION ASSURANCES.—Any such application shall provide assurances that—

"(1) all handicapped children in the State (other than handicapped infants and toddlers) participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) services, programs, and projects conducted under this subpart are of sufficient size, scope, and quality to give reasonable promise toward meeting the special educational and early intervention needs of children to be served;

"(3) funds made available under the subpart will supplement, not supplant State and local funds in accordance with section 1018(b);

"(4) the agency will maintain its fiscal effort in accordance with section 1018(a);

"(5) the agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

"(6) the parents of children to be served with funds under this subpart are provided an opportunity to participate in the development of its project application; and

"(7) the agency will comply with all reporting requirements in a timely manner.

"(d) LETTER OF REQUEST.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than 5 children with its payment. In such a letter the agency shall include an assurance that the payment will be used to supplement the provision of special education and related services.

"SEC. 1225. ELIGIBLE CHILDREN.

20 USC 2795.

"The children eligible for services under this subpart are—

"(1) those handicapped children from birth to 21, inclusive, who—

"(A) the State is directly responsible for providing special education or early intervention services to (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency), and

"(B)(i) are participating in a State-operated or State-supported school or program for handicapped children (including schools and programs operated under contract or other arrangement with a State agency), or

"(ii) previously participated in such a program and are receiving special education or early intervention services from local educational agencies; and

"(2) other handicapped children, if children described in paragraph (1) have been fully served.

20 USC 2796. "SEC. 1226. FEDERAL MONITORING REQUIREMENT.

"Whenever the Secretary conducts monitoring visits under part B of the Education of the Handicapped Act, the Secretary shall monitor the program authorized by this subpart, if applicable.

"Subpart 3—Programs for Neglected and Delinquent Children

20 USC 2801. "SEC. 1241. AMOUNT AND ENTITLEMENT.

"(a) ENTITLEMENT TO GRANTS.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

Puerto Rico. "(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

20 USC 2802. "SEC. 1242. PROGRAM REQUIREMENTS.

"(a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 2 of part F and sections 1011(a), 1014, and section 1018 (other than subsection (c)). The transfer of neglected and delinquent student records among State and local educational agencies, institutions, and programs shall include any individualized education programs of such students.

Records.

"(b) Compliance.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

"(c) Three-Year Projects.—Where a State agency operates programs under this subpart in which children are likely to participate for more than 1 year, the State educational agency may approve the application for a grant under this subpart for a period of more than 1 year, but not to exceed 3 years.

"(d) Evaluation.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program or special education program operated by a local educational agency.

"SEC. 1243. TRANSITION SERVICES.

20 USC 2803.

"(a) Transition Services.—Each State may reserve not more than 10 percent of the amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.

"(b) Conduct of Projects.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) Limitation.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

"SEC. 1244. DEFINITIONS.

20 USC 2804.

"For the purposes of this subpart, the following terms have the following meanings:

"(1) The term 'institution for delinquent children', as determined by the State educational agency, means a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

"(2) The term 'institution for neglected children' means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

"Subpart 4—General Provisions for State Operated Programs

20 USC 2811.

"SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES.

Appropriation authorization.

"There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter.

20 USC 2812.

"SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS.

"Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

"PART E—PAYMENTS

20 USC 2821.

"SEC. 1401. PAYMENT METHODS.

"The Secretary shall, from time to time, pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter or chapter 1 of the Education Consolidation and Improvement Act of 1981 (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

20 USC 2822.

"SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under sections 1053 and 1102 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

20 USC 2823.

"SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.

Grants.

"(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided for in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this chapter for such year, the allocations to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—(1) If additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis as they were reduced.

"(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State, and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter shall be in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding 2 sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

Grants.

"SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

20 USC 2824.

"(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter (other than section 1021), except that the total of such payments in any fiscal year shall be the greater of the following:

"(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

"(2) $325,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

Territories, U.S.

"(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

20 USC 2825.

"SEC. 1405. FUNDS FOR THE IMPLEMENTATION OF SCHOOL IMPROVEMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to pay, for the purpose of carrying out program improvement plans described in section 1021, to each State an amount equal to—

"(1)(A) 0.25 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1989, 1990, and 1991; and

"(B) 0.5 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1992 and 1993; or

"(2)(A) $90,000 or $15,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1989, 1990, and 1991; and

Territories, U.S.

"(B) $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1992 and 1993.

"(b) LIMITATIONS.—(1) No funds made available to States under subsection (a) may be used for administrative functions related to any provisions of this chapter.

"(2) Funds made available to States under this section shall only be used for direct educational services in schools implementing program improvement plans as described under section 1021.

"(3) Parents of participating children, school staff, the local educational agency and the State educational agency shall jointly agree to the selection of providers of technical assistance and the best use of funds available under subsection (a) for the effective implementation of the program improvement plan. Uses of such funds include assistance from—

"(A) an institution of higher education;

"(B) federally supported educational laboratory or center;

"(C) State personnel with expertise in educational improvement;

"(D) locally, State, or nationally based consultants; and

"(E) other possible providers of the specific services required by the school's program plan.

20 USC 2826.

"SEC. 1406. LIMITATION ON GRANT TO THE COMMONWEALTH OF PUERTO RICO.

"Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by the Commonwealth of Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which the agencies are eligible under section 1005.

"PART F—GENERAL PROVISIONS

"Subpart 1—Federal Administration

"SEC. 1431. FEDERAL REGULATIONS. 20 USC 2831.

"(a) In General.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(b) Procedure.—(1) Prior to publishing proposed regulations pursuant to this chapter, the Secretary shall convene regional meetings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter.

"(2) Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) In an emergency situation in which regulations pursuant to this chapter must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

Federal Register, publication.

"(c) Special Rule.—Funds made available under sections 1437 and 1463 of this chapter shall be released for expenditure by the Secretary only at such time as final regulations pertaining to this chapter are published in the Federal Register.

"(d) Limitation.—Programs under this chapter may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1432. AVAILABILITY OF APPROPRIATIONS. 20 USC 2832.

"(a) General Provision.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(b) Carryover and Waiver.—Notwithstanding section 412 of the General Education Provisions Act, subsection (a) or any other provision of law—

"(1) not more than 25 percent of funds appropriated for fiscal year 1989 and 15 percent of funds appropriated for fiscal year 1990 and each subsequent year may remain available for obligation for 1 additional year;

"(2) a State educational agency may grant a 1-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

"(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

20 USC 2833.

"SEC. 1433. WITHHOLDING OF PAYMENTS.

"(a) WITHHOLDING.—Whenever the Secretary, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter, the Secretary shall notify such agency of these findings and that beginning 60 days after the date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in the Secretary's discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

"(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

20 USC 2834.

"SEC. 1434. JUDICIAL REVIEW.

"(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

Records.

"(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act.

"(c) **Judicial Appeals.**—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari of certification as provided in section 1254 of title 28, United States Code.

"SEC. 1435. EVALUATION.

20 USC 2835.

"(a) **National Standards.**—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. In developing such standards, the Secretary may use the Title I Evaluation and Reporting System designed and implemented under title I of this Act, as in effect prior to the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 as the model. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluations.

"(b) **Reports.**—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107, 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1436. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

20 USC 2836.

"(a) **Policy Manual.**—The Secretary shall, not later than 6 months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

"(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

"(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, apply, and enforce requirements under this chapter throughout the United States.

"(b) **Contents of Policy Manual.**—The policy manual shall, with respect to programs carried out under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available. The manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried out under this chapter, including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

"(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

"(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

"(6) summaries of appropriate court decisions concerning programs under this chapter; and

"(7) model forms, policies, and procedures developed by State educational agencies.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not more than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

"(d) TECHNICAL ASSISTANCE.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruction, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

"(e) FEDERAL DISSEMINATION OF EXEMPLARY PROGRAMS.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with the National Diffusion Network.

"(f) FEDERAL REVIEW OF STATE AND LOCAL ADMINISTRATION.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement activities, and the detection and resolution of problems of local noncompliance.

"SEC. 1437. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION AND TECHNICAL ASSISTANCE. 20 USC 2837.

"There are authorized to be appropriated for the purposes of sections 1435 and 1436 for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $4,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"SEC. 1438. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT. 20 USC 2838.

"(a) **General Rule.**—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) **Supercession Rule.**—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter. 20 USC 1221e-3.

"(2) Section 426(a) of such Act is superseded by section 1437 of this chapter. 20 USC 1231c.

"(3) Section 427 of such Act is superseded by section 1016 of this chapter. 20 USC 1231d.

"(4) Section 430 of such Act is superseded by sections 1012, 1056, 1104(b), 1125, 1202(a), and 1224 of this chapter. 20 USC 1231g.

"(5) Section 455 of such Act is superseded by section 1433 of this chapter. 20 USC 1234d.

"(6) Section 458 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments. 20 USC 1234g.

"(c) **Exclusion Rule.**—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1439. NATIONAL COMMISSION ON MIGRANT EDUCATION. 20 USC 2839.

"(a) **Establishment.**—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the 'Commission').

"(b) **Membership.**—

"(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including 2 Members of the House, 1 from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 Members of the Senate, 1 from each political party.

"(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed 4 members of the Commission and designated a chairman within 60 days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

"(c) STUDY.—The Commission shall make a study of the following issues:

"(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

"(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

"(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

"(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

"(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

"(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

"(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas schools.

"(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

"(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

"(10) How many of the students being served are identified as 'currently migrant' and how many are 'formerly migrant'; what differences are there in their needs; and how do services provided differ between those of 'currently migrant' and those of 'formerly migrant'.

"(11) How does interstate and intrastate coordination occur at the State and local levels.

"(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

"(d) REPORTS.—

"(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate committees of the Congress on the studies required to be conducted under this section. The reports for the studies required shall be submitted as soon as practicable.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(e) SPECIAL STUDY ON THE MIGRANT STUDENT RECORDS TRANSFER SYSTEM.—(1) The Commission shall conduct a study of the function and the effectiveness of the Migrant Student Records Transfer System.

"(2) The Commission shall prepare and submit to the Secretary of Education and to the Congress, not later than 2 years after the first meeting of the Commission, a report on the study required by paragraph (1). Reports.

"(f) COMPENSATION.—

"(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

"(g) ADMINISTRATION.—

"(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

Contracts.

"(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

Grants.
Gifts and property.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or the donor's representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of 2 or more may conduct hearings.

"(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

Effective date.

"(i) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1988, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

"Subpart 2—State Administration

20 USC 2851.

"SEC. 1451. STATE REGULATIONS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

"(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, mathematics, or language arts) to be addressed; instructional settings, materials or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

"(3) Nothing in this subsection may be construed to inhibit the State educational agency's responsibility to work jointly with local educational agencies and other State agencies receiving funds under this chapter in program improvement activities pursuant to section

1021 where the State may suggest various activities and approaches as it works with such agencies to develop program improvement plans.

"(b) REVIEW BY COMMITTEE OF PRACTITIONERS.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) IDENTIFICATION AS STATE REQUIREMENT.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"SEC. 1452. RECORDS AND INFORMATION.

20 USC 2852.

"Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

"SEC. 1453. ASSIGNMENT OF PERSONNEL.

20 USC 2853.

"(a) LIMITATIONS.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. The time spent by public school personnel on duties described in the preceding sentence may not exceed either—

"(1) the same proportion of total work time as prevails with respect to similarly situated personnel at the same school site, or

"(2) one period per day,

whichever is less.

Wages.

"(b) USE IN STATE PROGRAMS.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs.

"SEC. 1454. PROHIBITION REGARDING STATE AID.

20 USC 2854.

"No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"Subpart 3—Rural Educational Opportunities

20 USC 2861.

"SEC. 1456. PROGRAM AUTHORIZED.

Grants.
Contracts.

"(a) General Authority.—The Secretary shall make grants to, or enter into contracts with, institutions of higher education, private nonprofit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1436(d), public agencies, State education agencies, or combinations of such agencies or institutions within particular regions of the United States, to pay all or part of the cost of operating at least 10 rural assistance programs. The Secretary may not make a grant to, or enter into a contract with, any agency, institution, organization, or combination thereof under the preceding sentence unless such agency, institution, organization, or combination thereof has extensive experience providing educational assistance to State and local educational agencies.

"(b) Functions of Regional Rural Assistance Programs.—Each regional rural assistance program established under subsection (a) shall provide technical assistance, consultation, training, and such other assistance as will assist State educational agencies and local educational agencies in the region to improve the quality of the education provided to educationally disadvantaged children participating in programs under this chapter who reside in rural areas or attend small schools. Each such program shall give special consideration to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

Reports.

20 USC 2862.

"SEC. 1457. APPLICATION PRIORITY REQUIREMENTS.

"(a) In carrying out this subpart, the Secretary shall give priority to applicants which describe assistance to school districts in local educational agencies in rural areas—

"(1) with the highest concentrations of children from low-income families;

"(2) that have a significant number or percentage of schools serving children from low-income families; and

"(3) in which there are a significant number of schools in which evaluations indicate lack of substantial progress toward meeting desired outcomes, no improvement, or a decline in aggregate performance by the children participating in programs under this chapter.

"(b) Applicants shall consult with State educational agencies and local educational agencies in the application process.

20 USC 2863.

"SEC. 1458. COORDINATION, DISSEMINATION, AND REPORT.

"(a) Coordination.—Each program established under this subpart shall—

"(1) coordinate its activities with technical assistance centers established under section 1436(d),

"(2) coordinate its activities with the activities of local educational agencies and State educational agencies under section 1021, and

"(3) assist in identifying successful programs and practices for dissemination through existing dissemination networks and efforts.

Rural areas.

"(b) Dissemination and Report.—(1) Each rural assistance program shall be accessible through electronic means.

"(2) Regional rural assistance programs shall submit a report to the Secretary every 2 years containing such reasonable information about its activities as the Secretary may request, but including at a minimum information on efforts to provide effective services under this chapter in rural school districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of 2 or more districts.

"SEC. 1459. AUTHORIZATION OF APPROPRIATIONS.

20 USC 2864.

"There are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"Subpart 4—Studies

"SEC. 1461. REPORT ON STATE AND LOCAL EVALUATIONS.

20 USC 2881.

"The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1462. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN.

20 USC 2882.

Contracts.

"(a) National Longitudinal Study.—The Secretary shall contract with a qualified organization or agency to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the correlations between participation in programs under this chapter and academic achievement, delinquency rates, truancy, school dropout rates, employment and earnings, and enrollment in postsecondary education. The study shall be conducted throughout the country in urban, rural, and suburban areas and shall be of sufficient size and scope to assess and evaluate the effect of the program in all regions of the Nation.

Rural areas.
Urban areas.
Suburban areas.

"(b) Follow-Up.—The agency or organization with which the Secretary has entered a contract under subsection (a) shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

"(c) Report.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

"SEC. 1463. AUTHORIZATION OF APPROPRIATIONS.

20 USC 2883.

"There are authorized to be appropriated $4,000,000 for the fiscal year 1989, $4,200,000 for the fiscal year 1990, $4,400,000 for the fiscal year 1991, $4,700,000 for the fiscal year 1992, and $5,000,000 for the fiscal year 1993 for carrying out sections 1461 and 1462.

"Subpart 5—Definitions

20 USC 2891.

"SEC. 1471. DEFINITIONS.

"Except as otherwise provided, for purposes of this Act:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the 50 States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2 of this title, or chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981.

"(7) The term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and, particularly, educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

"(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(ii) emphasis on the acquisition of basic and higher order skills;

"(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(iv) a climate of expectations that all children can learn under appropriate conditions; and

"(v) continuous assessment of students and programs to evaluate the effects of instruction.

"(8) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(9) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(10) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(12) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(13) The term 'more advanced skills' means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

"(14) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(15) The term 'parent advisory council' means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

"(16) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

"(17) The terms 'pupil services personnel' and 'pupil services' mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

"(18) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(19) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(20) The term 'Secretary' means the United States Secretary of Education.

"(21) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(22) The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(23) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"Subpart 6—Miscellaneous Provisions

20 USC 2901.

"SEC. 1491. TRANSITION PROVISIONS.

Grants.
Contracts.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued by the Secretary under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of this Act (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Acts on or before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this section under chapter 1 of the Education Consolidation and Improvement Act of 1981 or this title.

Effective date. Termination date.

"(c) TRANSITION.—With respect to the period beginning on July 1, 1988, and ending June 30, 1989, no recipient of funds under this chapter, or chapter 2 of this title, or under chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

20 USC 2911.

"(a) FINDINGS.—The Congress finds that—

"(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

"(2) State and local governments have placed a new focus on education;

"(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management; and

"(4) teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this chapter—

"(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

"(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

"(3) to meet the special educational needs of at risk and high cost students, as described in section 1531(b);

"(4) to enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

"(5) to allow State and local educational agencies to meet their educational needs and priorities for targeted assistance described in section 1531.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this chapter will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.

20 USC 2912.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—There are authorized to be appropriated $580,000,000 for the fiscal year 1989, $610,000,000 for the fiscal year 1990, $640,000,000 for the fiscal year 1991, $672,000,000 for the fiscal year 1992, and $706,000,000 for the fiscal year 1993, to carry out the provisions of this chapter.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purpose of this chapter.

"PART A—STATE AND LOCAL PROGRAMS

"Subpart 1—General Provisions

20 USC 2921.

"SEC. 1511. ALLOTMENT TO STATES.

Territories, U.S.

"(a) RESERVATIONS.—(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) The Secretary shall reserve an additional amount, not to exceed 6 percent of the sums appropriated in each fiscal year, to carry out the provisions of part B.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 2922.

"SEC. 1512. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

Disadvantaged persons.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 1511, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this chapter,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

Disadvantaged persons.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) From the funds paid to it pursuant to section 1511 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1533 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

20 USC 2931.

"SEC. 1521. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this chapter only for—

"(1) State administration of programs under this chapter including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds;

"(C) monitoring and evaluation of programs and activities under this part; and

"(D) operations of the State advisory committee;

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 1531; and

"(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

"(b) LIMITATIONS AND REQUIREMENTS.—

"(1) Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"(2)(A) At least 20 percent of funds available for State programs under this part in any fiscal year shall be used for effective schools programs under subsection (a)(3).

"(B) If a State is spending from non-Federal sources an amount equal to twice as much as the State is required to use for the purposes of subsection (a)(3), the Secretary may waive the requirement of subparagraph (A). In deciding whether or not to grant such a waiver, the Secretary shall use the definition of effective schools contained in section 1471(18).

20 USC 2932.

"SEC. 1522. STATE APPLICATIONS.

Grants.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

"(A) public and private elementary and secondary schoolchildren;

"(B) classroom teachers;

"(C) parents of elementary and secondary schoolchildren;

"(D) local boards of education;

"(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

"(F) institutions of higher education;

"(G) the State legislature;

"(H) elementary and secondary school librarians; and

"(I) school counselors and other pupil services personnel,

to advise the State educational agency on the allocation among targeted programs in accordance with section 1531 (not to exceed 20 percent of the amount of the State's allotment) reserved for State use under section 1512(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

"(3)(A) sets forth planned allocation of funds reserved for State use under section 1512(a) among the targeted assistance programs described in section 1531 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(4) describes how funds reserved under section 1521(b)(2) will be used to carry out subpart 4;

"(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

"(6)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this chapter;

"(B) in fiscal year 1992, provides for an evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

"(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

"(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

"(9) provides the following information: (A) how the State will adjust its formula to comply with section 1512(b)(2), (B) how children under section 1512(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1512(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1512; and

"(10) contains assurances that there is compliance with the specific requirements of this chapter.

"(b) Period of Application.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) Audit Rule.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every 5 years.

"Subpart 3—Local Targeted Assistance Programs

20 USC 2941.

"SEC. 1531. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this chapter shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs to meet the educational needs of students at risk of failure in school and of dropping out and students for whom providing an education entails higher than average costs;

"(2) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction;

"(3) innovative programs designed to carry out schoolwide improvements, including the effective schools program;

"(4) programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members;

"(5) programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and

"(6) other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

20 USC 2942.

"SEC. 1532. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Activities authorized under this subpart may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 1531. Such activities may include—

"(1) training of educational personnel in any of the targeted assistance programs described;

"(2) guidance and counseling services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 1531.

Grants.
Contracts.

"(b) ADMINISTRATIVE AUTHORITY.—In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

20 USC 2943.

"SEC. 1533. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 1531 of this chapter and describes the programs, projects, and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(2) describes how assistance under this chapter will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with provisions of this chapter including the participation of children enrolled in private, nonprofit schools in accordance with section 1572;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

"(5) provides, in the allocation of funds for the assistance authorized by this chapter, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

"Subpart 4—Effective Schools Programs

"SEC. 1541. ESTABLISHMENT. 20 USC 2951.

"Funds shall be available under this chapter in accordance with sections 1521 and 1531 to—

"(1) plan, implement, support, evaluate, revise, and strengthen effective schools programs;

"(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

"(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

"(4) develop and implement systems to evaluate and analyze effective schools programs;

"(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

"(6) support model and demonstration programs related to effective schools programs; and

"(7) develop and disseminate educational materials related to effective schools programs.

20 USC 2952. **"SEC. 1542. EFFECTIVE SCHOOLS.**

"For the purposes of this chapter the term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

20 USC 2961. **"SEC. 1561. GENERAL AUTHORITY.**

"(a) AUTHORIZATION.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

"(b) PRIORITY FUNDING.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

"(1) not less than $11,200,000 for National Diffusion Network activities under section 1562;

"(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

"(3) not less than $3,500,000 for the Arts in Education program under section 1564;

"(4) not less than $3,200,000 for the law-related education program under section 1565; and

"(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

"SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES.

20 USC 2962.

"(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

"(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

"(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

"(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(2) assist such persons in implementing programs, products, and practices which such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

"(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

"(c) ELIGIBLE RECIPIENTS OF GRANTS AND CONTRACTS.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

"(d) FUNDING CRITERIA.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

"(A) The applicant has a workable plan for disseminating its program.

"(B) The program's approach is innovative.

"(C) The program is accurate and up-to-date.

"(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

"(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall consult with interested parties, including participants in the National Diffusion Network.

"(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

Contracts.
20 USC 2963.

"SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

Reading is Fundamental.

"(a) AUTHORIZATION.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the 'contractor'), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) REQUIREMENTS OF CONTRACT.—The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary school children;

"(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITIONS.—For purposes of this section the term 'Federal share' means—

"(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

"(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

"SEC. 1564. ARTS IN EDUCATION PROGRAM.

20 USC 2964.

Grants.
Contracts.

"The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as—

"(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

"(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

Handicapped persons.

"(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the organization Very Special Arts.

"SEC. 1565. LAW-RELATED EDUCATION PROGRAM.

20 USC 2965.

Grants.
Contracts.

"(a) AUTHORIZATION.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"(b) DEFINITION.—For the purpose of this section, the term 'law-related education' means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

"(c) AUTHORIZED ACTIVITIES.—Funds made available for the purposes of this section may be available for activities such as—

"(1) awareness activities to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for law-related personnel in the substance and practice of law-related education, including preservice and inservice seminars, workshops, institutes, and courses;

Research and development.

"(5) research and evaluation to study and improve the effectiveness of materials and methods in law-related education;

"(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experiences with the law and the legal system.

20 USC 2966.

"SEC. 1566. BLUE RIBBON SCHOOLS PROGRAM.

"(a) General Authority.—The Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as 'Blue Ribbon Schools'. In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) Selection Process.—(1) The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) Administrative Provisions.—(1) The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) For the purposes of this section, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART C—GENERAL ADMINISTRATIVE PROVISIONS

20 USC 2971.

"SEC. 1571. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 1572. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

20 USC 2972.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

Contracts.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this chapter, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

Contracts.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

Courts, U.S.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

Records.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

"SEC. 1573. EVALUATIONS AND REPORTING.

20 USC 2973.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1531. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this chapter shall evaluate the effectiveness of State and local programs under this chapter in accordance with section 1522(a)(6)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this chapter.

"(B) The Secretary shall not later than October 1, 1992, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

20 USC 2974.

"SEC. 1574. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

Regulations.

"(b) RULEMAKING.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(d) SPECIAL RULE.—The provisions of sections 1433 and 1434 shall apply to the programs authorized by this chapter.

20 USC 2975.

"SEC. 1575. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this chapter:

20 USC 1221e-3. "(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1574(b) of this chapter.

20 USC 1231c. "(2) Section 426(a) of such Act is superseded by section 1574(a) of this chapter.

20 USC 1231d. "(3) Section 427 of such Act is superseded by section 1534(a)(5) of this chapter.

20 USC 1231g. "(4) Section 430 of such Act is superseded by sections 1522 and 1533 of this chapter.

"(c) SPECIAL RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

20 USC 2976.

"SEC. 1576. TRANSITION PROVISIONS.

Grants.
Contracts.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981.

"(c) TRANSITION.—With respect to the period beginning July 1, 1988, and ending June 30, 1989, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act.

Effective date.
Termination date.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

Dwight D. Eisenhower Mathematics and Science Education Act.
20 USC 2981.

"SEC. 2001. SHORT TITLE.

"This part may be cited as the 'Dwight D. Eisenhower Mathematics and Science Education Act'.

"SEC. 2002. STATEMENT OF PURPOSE.

20 USC 2982.

"The purpose of this part is to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools through assistance to State educational agencies, local educational agencies, and institutions of higher education.

"SEC. 2003. PROGRAM AUTHORIZED.

20 USC 2983.

"(a) GRANTS.—The Secretary is authorized to make grants to States and discretionary grants in accordance with the provisions of this part for strengthening the skills of teachers and improving instruction in mathematics and science.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this part, $250,000,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 2004. ALLOCATION OF FUNDS.

20 USC 2984.

"(a) IN GENERAL.—(1) From the amount appropriated under section 2003(b) for any fiscal year, the Secretary shall reserve—

Territories, U.S.

"(A) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part;

Indians.

"(B) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior consistent with the purposes of this part; and

"(C) 4 percent for section 2012.

"(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

"(A) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to such ½ of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of chapter 1 of title I of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than ½ of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"(5) The Secretary shall make payments under paragraph (1)(B) on whatever terms the Secretary determines will best carry out the purposes of this part.

"(b) REALLOTMENT OF UNUSED FUNDS.—The amount of any State's allotment under subsection (a) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

20 USC 2985.

"SEC. 2005. IN-STATE APPORTIONMENT.

"(a) ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—(1) For each fiscal year, an amount equal to 75 percent of each State's allotment under section 2004 shall be used for elementary and secondary education programs in accordance with section 2006, for demonstration and exemplary programs under section 2006(c) and for technical assistance under section 2006(d).

"(2) Not less than 90 percent of such amount shall be distributed as follows:

"(A) The State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school districts of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and—

"(i) private nonprofit schools, or

"(ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this part.

Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this part.

Disadvantaged persons.

"(B) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged 5 to 17 who—

"(i) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and

"(ii) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;

in the schools of the local educational agencies within the State.

"(b) HIGHER EDUCATION PROGRAMS.—For each fiscal year, 25 percent of each State's allotment under section 2004 shall be used for higher education programs in accordance with section 2007.

"SEC. 2006. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.
20 USC 2986.

"(a) IN GENERAL.—The amount apportioned under section 2005(a)(2) from each State's allotment under this part shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

"(b) LOCAL EDUCATIONAL AGENCIES.—(1) Each local educational agency shall use funds distributed under this part for—

"(A) the expansion and improvement of preservice training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study they teach;

"(B) recruitment or retraining of minority teachers to become mathematics and science teachers;

"(C) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families after all other training needs have been met);

"(D) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum; or

"(E) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

Contracts.

"(2) Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. Agreements for funds available under section 2004(a)(1)(B) may be made with institutions of higher education receiving funds under the Tribally Controlled Community College Assistance Act of 1978. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics and science programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and, especially, gifted and talented children from within such groups.

"(3) A local educational agency for any fiscal year may apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. The State educational agency may assist in the formation of consortia between local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency at the request of such local educational agency.

"(4) Not more than 5 percent of funds available to the local educational agency for the purpose of this section for any fiscal year may be used for local administration.

"(c) DEMONSTRATION AND EXEMPLARY PROGRAMS.—Not less than 5 percent of the amount available under this section shall be used by the State educational agency for—

"(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science;

"(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance;

"(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students; or

"(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics and science.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics and science to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

"(d) TECHNICAL ASSISTANCE AND ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount available under this section may be used by the State educational agency—

"(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified in subsection (b); and

"(2) for the costs of administration and assessment of programs assisted under this part.

20 USC 2987.

"SEC. 2007. HIGHER EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the amount apportioned under section 2005(b) from each State's allotment under this part shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

"(2) Funds available under section 2004(a)(1)(B) and reserved under section 2005(b) shall be used, in accordance with the provisions of this section, to support programs conducted within institutions of higher education funded through the Bureau of Indian Affairs.

"(b) Grants to Institutions of Higher Education.—(1)(A) Not less than 95 percent of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.

"(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

"(2) The amount available under this subsection shall be used for—

"(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics or science to specialize in the teaching of mathematics or science, including the provision of stipends for participation in institutes authorized under title I of the Education for Economic Security Act or any other program of the National Science Foundation; and

"(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, including stipends for participation in institutes authorized under title I of the Education for Economic Security Act, or any other program of the National Science Foundation.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics and science and careers by students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will ensure cooperative agreements or cooperative arrangements with local educational agencies.

"(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (2)(C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

"(c) Cooperative Programs.—The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional matehmatics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science and mathematics.

"(d) Assessment and Administrative Costs.—Not to exceed 5 percent of the amount available under this section may be used by the State agency for higher education for—

"(1) the State assessment required by section 2008(c); and

"(2) the costs incurred by such agency for administration and evaluation of programs assisted under this part.

Disadvantages persons.
Women.
Minorities.
Handicapped persons.
20 USC 2988.

"SEC. 2008. STATE APPLICATION.

"(a) Application.—Each State which desires to receive a grant under this part shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall—

"(1) designate the State educational agency for the purpose of programs described in section 2006, and the State agency for higher education for the purpose of programs described in section 2007 as the agency or agencies responsible for the administration and supervision of the programs described in section 2006 or 2007, as the case may be;

"(2) provide assurances that—

"(A) payments will be distributed by the State in accordance with the provisions of this title;

"(B) for programs described in section 2006, the provisions of section 2010 will be carried out;

"(C) the State will provide such fiscal control and funds accounting as the Secretary may require;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 3-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

"(F) the State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped;

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use; and

"(H) that the programs conducted with State funds will be assessed annually (including statistics on the number of students and teachers involved in these programs) and that the data from such assessments, as well as a summary of the local assessments required under section 2009(b)(6), will be submitted to the Secretary;

"(3) if appropriate, provide a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to any program available from the National Science Foundation or the Department of Energy, or both; and

"(4) describe procedures—

"(A) for submitting applications for programs described in sections 2006 and 2007 for distribution of payments under this part within the State, and

"(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) INFORMATIONAL REQUIREMENTS.—Each State application shall also contain the following:

"(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

"(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science.

"(d) DESCRIPTION OF ASSISTED ACTIVITIES.—Each application shall also contain the following descriptions:

"(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsections (c)(1) and (c)(2).

"(2) The specific activities that will be undertaken that involve institutions of higher education.

"(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

"(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

"(e) APPROVAL.—The Secretary shall expeditiously approve any State application that meets the requirements of this section.

"SEC. 2009. LOCAL APPLICATION.

20 USC 2989.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application which covers a 3-year period (singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit).

"(b) CONTENTS OF APPLICATION.—A local educational agency application shall—

"(1) provide a summary assessment of—

"(A) the needs of its current teachers in mathematics and science and whether a shortage of such qualified teachers exists or will exist within 5 years after the date of the application;

"(B) the current levels of mathematics and science student achievement in the local educational agency; and

"(C) the curricular needs of the local educational agency in mathematics and science;

"(2) describe how the local educational agency plans to use funds received under this part to meet the needs described in paragraph (1)(A);

"(3) if applicable, describe how funds under this part will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the

National Science Foundation, or the Department of Energy, or both;

"(4) if applicable, describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including, museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

Disadvantaged persons. Women. Minorities. Handicapped persons.

"(5) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

"(6) assure that the programs will be assessed, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

"(c) RENEWAL OF PAYMENTS.—The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this part. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

20 USC 2990.

"SEC. 2010. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 2011. FEDERAL ADMINISTRATION.

20 USC 2991.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives, shall develop procedures for State and local evaluations of the programs under this part.

"(b) SUMMARY.—The Secretary shall submit to the Congress every 2 years a summary of the State evaluations of programs under this part.

"(c) MODEL REPORTING STANDARDS.—In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2008 and 2009.

"SEC. 2012. NATIONAL PROGRAMS.

Grants.
Contracts.
20 USC 2992.

"(a) AMOUNT AVAILABLE.—From 4 percent of amounts appropriated under section 2003(b), the Secretary shall make grants or enter into cooperative agreements in accordance with this section.

"(b) ELIGIBLE GRANTEES.—The Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private nonprofit organizations, providing special services to historically underserved and underrepresented populations (and especially gifted and talented children from within such populations) in the fields of mathematics and science.

"(c) PROGRAMS FOR TRAINING AND RETRAINING TEACHERS.—In awarding grants and cooperative agreements, the Secretary shall also give special consideration to programs of such institutions and organizations (such as museums) which train and retrain teachers in methods of scientific inquiry and provide materials which aid the education of students. In awarding grants and cooperative agreements, the Secretary shall give preference to developed and currently operating programs which are disseminated throughout the region in which such an institution or organization is located.

"(d) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning grants and cooperative agreements under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"SEC. 2013. DEFINITIONS.

20 USC 2993.

"As used in this part:

"(1) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(2) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

Foreign Language Assistance Act of 1988.
20 USC 3001.

"PART B—FOREIGN LANGUAGES ASSISTANCE

"SEC. 2101. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1988'.

20 USC 3002.

"SEC. 2102. FINDINGS.

"The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this part.

20 USC 3003.

"SEC. 2103. PROGRAM AUTHORIZED.

Grants.

"(a) General Authority.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

"(b) Application.—Any State educational agency desiring to receive a grant under this part shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

"(1) contains a description of model programs which—

"(A) are designed by local educational agencies,

"(B) represent a variety of alternative and innovative approaches to foreign language instruction, and

"(C) are selected on a competitive basis by the State educational agency;

"(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

"(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

"(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

"(c) Federal Share.—(1) The Federal share for each fiscal year shall be 50 percent.

"(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

"(d) Participation of Private Schools.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

"(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of this Act.

"SEC. 2104. ALLOTMENTS.

20 USC 3004.

Territories, U.S.

"(a) General Rule.—(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(b) Availability of Funds.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

"SEC. 2105. DEFINITIONS.

20 USC 3005.

"(a) General Rule.—For the purpose of this part:

"(1) The term 'foreign language instruction' means instruction in critical foreign languages as defined by the Secretary.

"(2) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"(b) Special Rule.—For the purpose of section 2104—

"(1) the term 'school age population' means the population aged 5 through 17; and

"(2) the term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 3006.

"SEC. 2106. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this part.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

20 USC 3011.

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) General Authority.—(1) The President is authorized to make Presidential awards for teaching excellence in mathematics and science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

"(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

"(b) Limitation.—Each year the President is authorized to make 104 awards under subsection (a)(1), and 104 awards under subsection (a)(2). In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 3012.

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

"The President shall carry out the provisions of this part, including the establishment of the selection procedures, after consultation with the Secretary of Education, and other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

20 USC 3013.

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—(1) Funds to carry out this part for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education.

"(2)(A) There are authorized to be appropriated $2,000,000 for each fiscal year to carry out the provisions of this part.

"(B) Not more than $1,000,000 are authorized to be available to carry out the provisions of paragraph (2) of section 2201(a).

"(b) Availability.—Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out the provisions of this part.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"SEC. 3001. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

20 USC 3021.

"(a) Authorization.—There are authorized to be appropriated $165,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal years 1990 through 1993 to carry out the provisions of this title.

"(b) Availability of Funds for Grants to Agencies Not Previously Assisted.—(1) In any fiscal year in which the amount appropriated pursuant to section 3001 exceeds $75,000,000, the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies which—

"(A) meet the requirements of section 3002; and

"(B) have not received a grant under title VII of the Education for Economic Security Act, or under this title, in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made.

"(2) In awarding grants with the first $75,000,000, the Secretary shall not take into account, in whole or in title, whether a local educational agency has received an award in the prior funding cycle.

"SEC. 3002. ELIGIBILITY.

Minorities.
Discrimination, prohibition.
20 USC 3022.

"A local educational agency is eligible to receive assistance under this title if the local educational agency—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

"SEC. 3003. STATEMENT OF PURPOSE.

20 USC 3023.

"It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 3004. PROGRAM AUTHORIZED.

20 USC 3024.
Grants.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

20 USC 3025.

"SEC. 3005. DEFINITION.

"For the purpose of this title, the term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

20 USC 3026.

"SEC. 3006. USES OF FUNDS.

Grants.

"Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where, with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

20 USC 3027.

"SEC. 3007. APPLICATIONS AND REQUIREMENTS.

"(a) Application.—Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

"(b) Requirements Certified.—As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

"(1) to use funds made available under this title for the purposes specified in section 3003;

"(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

Discrimination, prohibition.

"(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

"(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students;

"(6) to describe how assistance made available under this title will be used to promote desegregation;

"(7) to provide assurances that the agency will carry out a high quality education program that will encourage greater parental decisionmaking and involvement;

"(8) to provide a description of the manner in which the local educational agency will continue the magnet schools program after assistance under this title is no longer available; and

"(9) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in clauses (3), (4), and (5) of subsection (b) will be met.

"SEC. 3008. SPECIAL CONSIDERATION.

20 USC 3028.

"(a) PRIORITY.—In approving applications under this title the Secretary shall give priority to—

"(1) the recentness of the implementation of the approved plan or modification thereof;

"(2) the proportion of minority group children involved in any approved plan; Minorities.

"(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

"(b) SPECIAL CONSIDERATION.—In approving applications under this title, the Secretary shall give special consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

"SEC. 3009. PROHIBITIONS.

20 USC 3029.

"Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

"SEC. 3010. LIMITATION ON PAYMENTS.

20 USC 3030.

"(a) LIMITATION ON DURATION AND PROGRESS.—No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

"(b) LIMITATION ON PLANNING FUNDS.—No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

"(c) SPECIAL RULE ON CHAPTER 2 FUNDS.—No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

20 USC 3031.

"SEC. 3011. PAYMENTS.

"(a) GENERAL RULE.—(1) The Secretary shall pay to each local educational agency having an application approved under this title the amount set forth in the application.

"(2) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available to local educational agencies for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

"(3) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412 (b) and (c) of the General Education Provisions Act.

"(4) Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year, except that no such agency shall receive more than $4,000,000 under this title in any one grant cycle.

Grants.

"(b) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies under this title no later than June 30 of the applicable fiscal year.

20 USC 3032.

"SEC. 3012. WITHHOLDING.

"The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

"TITLE IV—SPECIAL PROGRAMS

Women's Educational Equity Act.

"PART A—WOMEN'S EDUCATIONAL EQUITY

"SEC. 4001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

20 USC 3041.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act'.

"(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

20 USC 3042.

"SEC. 4002. PROGRAM AUTHORIZED.

Grants.
Contracts.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

“(A) the development, where such materials are commercially unavailable, and evaluation of curricula, textbooks, and other educational materials related to educational equity;

“(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

“(C) research and development activities designed to advance educational equity;

“(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

“(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

“(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

“(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed 2 years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities described by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

“(b) LIMITATION.—For each fiscal year, the Secretary shall use $4,500,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $4,500,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

“SEC. 4003. APPLICATION; PARTICIPATION.

20 USC 3043.

Grants.
Contracts.

“(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

“(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

“(2) describe a program for carrying out one or more of the purposes set forth in section 4001(b) which holds promise of making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application, including where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period.

"(b) Special Rule.—In approving applications under this part, the Secretary shall give special consideration to—

"(1) applications submitted by applicants that have not received assistance under this part or under part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect prior to October 1, 1988); and

"(2) proposals from applicants on the basis of geographic distribution throughout the United States.

Discrimination, prohibition. "(c) Limitation.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

20 USC 3044.

"SEC. 4004. CHALLENGE GRANTS.

"(a) Purpose.—In addition to the authority of the Secretary under section 4002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 4002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) Grant Recipients.—For the purpose described in paragraphs (1) through (4) of subsection (a), the Secretary is authorized to make grants to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

20 USC 3045.

"SEC. 4005. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under sections 4002(a)(1) and 4002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. The criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

20 USC 3046.

"SEC. 4006. REPORTS, EVALUATION, AND DISSEMINATION.

"(a) Reports.—The Secretary shall, from funds authorized under this part, not later than September 30, 1992, submit to the President and the Congress a report setting forth the programs and activities assisted under this part, and provide for the distribution of this report.

"(b) Evaluation and Dissemination.—The Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS.

20 USC 3047.

"There are authorized to be appropriated $9,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART B—GIFTED AND TALENTED CHILDREN

Jacob K. Javits Gifted and Talented Students Education Act of 1988.

"SEC. 4101. SHORT TITLE.

20 USC 3061.

"This part may be referred to as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1988'.

"SEC. 4102. FINDINGS AND PURPOSES.

20 USC 3062.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(2) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(3) gifted and talented students from economically disadvantaged families and areas, and students of limited English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs; and

"(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students. It is also the purpose of this part to supplement and make more effective the expenditure of State and local funds, and of Federal funds made available under chapter 2 of title I of this Act and title II of this Act, for the education of gifted and talented students.

"SEC. 4103. DEFINITIONS.

20 USC 3063.

"For the purposes of this part:

"(1) The term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(2) The term 'institution of higher education' has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

"(3) The term 'Hawaiian native' means any individual any of whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

"(4) The term 'Hawaiian native organization' means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

20 USC 3064.

"SEC. 4104. AUTHORIZED PROGRAMS.

Contracts.
Grants.
Indians.

"(a) ESTABLISHMENT OF PROGRAM.—From the sums appropriated under section 4108 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this Act that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students or in supervising such personnel.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented students, including summer programs and cooperative programs involving business, industry, and education;

"(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students;

"(4) programs of technical assistance and information dissemination; and

"(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

Grants.
Contracts.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) Limitation.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

"SEC. 4105. PROGRAM PRIORITIES.

20 USC 3065.

"(a) General Priority.—In the administration of this part the Secretary shall give highest priority—

Disadvantaged persons.
Handicapped persons.

"(1) to the identification of gifted and talented students who may not be identified through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented students from such groups; and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented students.

Disadvantaged persons.

"(b) Service Priority.—In approving applications under section 4104(a) of this part, the Secretary shall assure that in each fiscal year at least one-half of the applications approved contain a component designed to serve gifted and talented students who are economically disadvantaged individuals.

"SEC. 4106. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.

20 USC 3066.

Grants.
Contracts.

"In making grants and entering into contracts under this Act, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in preservice and inservice training programs for serving such children.

"SEC. 4107. ADMINISTRATION.

20 USC 3067.

"The Secretary shall establish or designate an administrative unit within the Department of Education—

"(1) to administer the programs authorized by this part,

"(2) to coordinate all programs for gifted and talented students administered by the Department, and

"(3) to serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet those needs.

The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional qualifications and experience in the field of the education of gifted and talented students.

20 USC 3068.

"SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

20 USC 3081.

"SEC. 4301. FINDINGS.

"The Congress makes the following findings:

"(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

"(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

"(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

Grants.

"Subpart 1—Program for Secondary School Students and Teachers

20 USC 3091.

"SEC. 4311. ESTABLISHMENT.

Close Up Foundation.
District of Columbia.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

Disadvantaged persons.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students and teachers shall be known as Allen J. Ellender fellowships.

20 USC 3092.

"SEC. 4312. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

Disadvantaged persons.

"(2) that not more than 1 secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

"(3) that every effort will be made to ensure the participation of students and teachers from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority students, gifted and talented students, and students of migrant parents; and

Rural areas.
Urban areas.
Disadvantaged persons.
Handicapped persons.
Minorities.

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 2—Programs for Older Americans and Recent Immigrants

Grants.

"SEC. 4321. ESTABLISHMENT.

20 USC 3101.
Close Up Foundation.
District of Columbia.

"(a) General Authority.—(1) The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans and recent immigrants.

"(2) For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans and recent immigrants who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 4322. APPLICATIONS.

20 USC 3102.

"(a) Application Required.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans and recent immigrants;

"(2) that every effort will be made to ensure the participation of older Americans and recent immigrants from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans and recent immigrants with special needs, including handicapped individuals and ethnic minorities;

Rural areas.
Urban areas.
Handicapped persons.
Minorities.

"(3) that activities permitted by section 4321 are fully described; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 3—General Provisions

20 USC 3111.

"**SEC. 4331. ADMINISTRATIVE PROVISIONS.**

"(a) General Rule.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) Audit Rule.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

20 USC 3112.

"**SEC. 4332. AUTHORIZATION OF APPROPRIATIONS.**

"(a) Authorization for Subpart 1.—There are authorized to be appropriated to carry out the provisions of subpart 1 of this part $3,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(b) Authorization for Subpart 2.—(1) There are authorized to be appropriated to carry out the provisions of subpart 2 of this part $2,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(2) No funds may be appropriated pursuant to paragraph (1) for the fiscal year 1989 unless amounts appropriated pursuant to subsection (a) for such fiscal year total not less than $2,500,000. In each of the fiscal years 1990 through 1993, no funds may be appropriated pursuant to paragraph (1) unless sufficient amounts are appropriated pursuant to subsection (a) for the fiscal year to carry out activities under subpart 1 of this part at the level established during the fiscal year 1989.

Emergency Immigrant Education Act of 1984.
20 USC 3121.

"PART D—IMMIGRANT EDUCATION

"**SEC. 4401. SHORT TITLE.**

"This part may be cited as the 'Emergency Immigrant Education Act of 1984'.

20 USC 3122.

"**SEC. 4402. DEFINITIONS.**

"As used in this part—

"(1) The term 'immigrant children' means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

"(2) The term 'elementary or secondary nonpublic schools' means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

20 USC 3123.

"**SEC. 4403. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.**

"(a) Authorizations of Appropriations.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) Allocation of Appropriations.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

"SEC. 4404. STATE ADMINISTRATIVE COSTS.

20 USC 3124.

"The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

"SEC. 4405. WITHHOLDING.

20 USC 3125.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 4406. STATE ENTITLEMENTS.

20 USC 3126.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through 1993 for the purpose set forth in section 4407.

"(b) ENTITLEMENTS.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

"(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

"(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

"(c) Determinations of Number of Children.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(d) Reallocation.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

20 USC 3127.

"SEC. 4407. USES OF FUNDS.

"(a) Supplementary Educational Services and Costs.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

"(b) KINDS OF SERVICES AND COSTS.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

"(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

"(A) English language instruction;

"(B) other bilingual educational services; and

"(C) special materials and supplies;

"(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

"SEC. 4408. APPLICATIONS.

20 USC 3128.

"(a) SUBMISSION.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

"(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

Reports.

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

Contracts.

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

"(b) APPROVAL OF APPLICATION.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

20 USC 3129.

"SEC. 4409. PAYMENTS.

"(a) AMOUNT.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

20 USC 3130.

"SEC. 4410. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

"PART E—TERRITORIAL ASSISTANCE

20 USC 3141.

"SEC. 4501. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

Appropriation authorization.

"There are authorized to be appropriated $5,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"SEC. 1502. TERRITORIAL TEACHER TRAINING ASSISTANCE.

20 USC 3142.

Appropriation authorization.
Grants.
Contracts.

"There are authorized to be appropriated $2,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"SEC. 4601. PROGRAM AUTHORIZED.

20 USC 3151.

"(a) General Authority.—(1) From funds appropriated under this part, the Secretary is authorized to carry out programs and projects which show promise of identifying and disseminating innovative educational approaches.

"(2) The Secretary, in carrying out the provisions of this part, is authorized to—

"(A) develop, prepare, and conduct an optional test for academic excellence in accordance with section 4602;

"(B) carry out programs for technology education in accordance with section 4603;

"(C) strengthen and expand computer education resources available in public and private elementary and secondary schools in accordance with section 4604; and

"(D) establish and strengthen comprehensive school health education programs in accordance with section 4605.

Grants.
Contracts.

"(b) Administrative Authority.—The Secretary is authorized to carry out programs and projects under this section directly, or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"SEC. 4602. OPTIONAL TESTS FOR ACADEMIC EXCELLENCE.

20 USC 3152.

"(a) Test of Academic Excellence Authorized.—The Secretary is authorized, after consultation with appropriate State and local educational agencies and public and private organizations, to approve comprehensive tests of academic excellence or to develop such a test where commercially unavailable, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) Preparation and Conduct of Tests.—(1) The Secretary is authorized to establish a program through arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part may be given by such agencies or schools, on a voluntary basis, to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education. Such students may file applications for the test at such time and in such manner as the Secretary may prescribe. Upon application by any appropriate agency or school by such time and in such manner as the Secretary may determine, the Secretary shall pay to such agency or school the cost of the administrative expenses it has incurred pursuant to an arrangement made under this section.

Classified information.

"(2) The Secretary shall assure that the tests authorized by this part are conducted in a secure manner, and that test items remain confidential so that such items may be used in future tests.

"(c) CERTIFICATE.—(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given the test.

"(2) Each certificate awarded pursuant to this section shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this subpart.

Communications and telecommunications.
20 USC 3153.

"SEC. 4603. TECHNOLOGY EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs which use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers.

"(b) USES OF FUNDS.—Funds available to carry out this section may be used for—

"(1) programs and projects which use such technology to address specifically the educational needs in critical subject matter areas;

"(2) programs and projects to assist in the training of public and private elementary and secondary school teachers, administrators, and other educational personnel to use in the schools of such television programming, radio programming, telecommunications programs, or video resources, or in the coordination of such technology with the school curriculum; or

"(3) educational television, educational radio, telecommunications or video resources programs or projects which promote a partnership between elementary and secondary schools, the parents of elementary and secondary students, State educational agencies, and institutions of higher education or the community in which such schools are located.

"(c) DEFINITION.—For the purpose of this section the term 'telecommunications' means the full range of technologies that can be used for educational instruction, including closed circuit television systems, educational television and radio broadcasting, cable television, satellite transmission, computer laser discs, and video and audio discs and tapes.

"SEC. 4604. PROGRAMS FOR COMPUTER-BASED INSTRUCTION.

Grants.
20 USC 3154.
Contracts.

"(a) General Authority.—The Secretary is authorized to make grants and enter into contracts, as authorized by section 4601 for the purpose of strengthening and expanding computer education resources available in public and private elementary and secondary schools.

"(b) Uses of Funds.—Projects assisted under this section may include—

"(1) the acquisition and leasing of computer hardware for instructional purposes, including services necessary for the operation, installation, and maintenance of computer hardware;

"(2) the acquisition of computer software and complementary instructional materials; or

"(3) teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the curriculum. Such programs may make provision for teacher stipends at a rate of $275 per week for the period of attendance in such program. The Secretary may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out programs under this section.

"(c) Special Rule.—No grant may expend more than 25 percent for the acquisition of computer hardware.

"(d) Planning Requirement.—No grant may be made under this section unless the applicant carries out planning activities designed to facilitate the use of Federal financial assistance under this section for the expansion of computer resources in elementary or secondary schools. Such planning activities shall include—

"(1) the goals for computer education in the schools;

"(2) integration with the curriculum;

"(3) where appropriate, provisions for computer use after school by students, parents, teachers, and adult learners; and

"(4) standards for the evaluation of computer education programs.

"SEC. 4605. PROGRAMS FOR THE IMPROVEMENT OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

20 USC 3155.

"(a) General Authority.—The Secretary through the Office established under subsection (c) of this section, may—

"(1) encourage State and local educational agencies to provide comprehensive school health education to the elementary and secondary school students in the schools of such agencies;

"(2) provide technical support to State and local educational agencies on health education programs and curricula;

"(3) make grants to State and local educational agencies in accordance with this section; Grants.

"(4) provide an annual report on the progress of the Office (established under subsection (c)) and the status of school health education in the United States; Reports.

"(5) cooperate with other Federal agencies carrying out school health education programs to ensure coordination of such programs; and

"(6) advise the Secretary on school health education policy.

Grants.

"(b) USES OF FUNDS.—Grants under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;

"(2) nutrition;

"(3) mental and emotional health;

"(4) prevention of chronic diseases;

"(5) substance use and abuse;

"(6) accident prevention and safety;

"(7) community and environmental health;

"(8) prevention and control of communicable diseases;

"(9) effective use of the health services delivery system; and

"(10) development and aging.

Establishment.

"(c) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

"(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

20 USC 3156.

"SEC. 4606. ALTERNATIVE CURRICULUM SCHOOLS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist—

"(1) local educational agencies;

"(2) consortia of such agencies; and

"(3) intermediate educational units;

which have significant percentages of minority students to establish and conduct programs which reflect a minority composition of at least 50 percent in the alternative curriculum school established by the applicant to strengthen the knowledge of elementary and secondary school students in academic subjects and to contribute to the desegregation of the schools of the applicant.

Grants.

"(b) ELIGIBILITY.—A local educational agency, consortium of such agencies, or intermediate educational unit, is eligible to receive a grant under this section if such agency, unit, or consortium submits an application which contains evidence of collaborative arrangements between the applicant and an institution of higher education, a community-based organization, another local educational agency, an appropriate State educational agency, or any combination of such institutions, organizations, or agencies.

Grants.

"(c) USES OF FUNDS.—Grants under this section may be used for—

"(1) planning and outreach activities directly related to expansion and enhancement of academic programs and services in the alternative curriculum school;

"(2) the acquisition of books, materials, and equipment (including computers and the maintenance and operation thereof) necessary for the conduct of educational programs in the alternative curriculum school; and

Wages.

"(3) the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of educational programs in the alternative curriculum school;

whenever such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving the vocational skills of elementary and secondary school students.

Grants.
Minorities.

"(d) Applications.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) provide assurances that the assistance will be used for the purposes described in subsection (c);

"(2) provide assurances that the local educational agency or intermediate educational unit would have a minority composition of at least 65 percent, or in the case of a consortium, that at least one local educational agency would have a minority composition of 65 percent;

"(3) provide assurances that the students served in the alternative curriculum school established reflect a minority composition of at least 50 percent;

"(4) demonstrate the extent to which the alternative curriculum school will contribute to desegregation in the local educational agency;

"(5) demonstrate the extent to which the alternative curriculum school will contribute to the improvements of the academic quality of the education offered by schools throughout the local educational agency;

"(6) describe the collaborative efforts required by subsection (b);

"(7) provide assurances that teachers will be employed in the courses of instruction assisted under this section who are certified or licensed by the State to teach the subject matter of the courses of instruction;

Discrimination, prohibition.

"(8) provide assurances that the applicant will not engage in discrimination based upon race, religion, color, national origin, sex, or handicapping conditions in—

"(A) hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

"(B) the mandatory assignment of students to schools or to courses of instruction within schools of such applicant, except as is necessary to carry out an approved desegregation plan; and

"(C) designing or operating extracurricular activities for students;

"(9) describe how funds made available under this section will be used to promote integration and provide a high quality education program for local educational agencies with significant concentrations of minority students;

"(10) describe how such applicant will devote its resources to continuing the program when funds made available to it under this section may no longer be made available; and

"(11) provide such other assurances as the Secretary determines necessary.

Grants.

"(e) Unused Amounts.—In any fiscal year in which amounts are appropriated but not allocated under this section, the Secretary shall use such amounts to make grants under title III of this Act (relating to magnet schools).

"(f) SPECIAL EVIDENTIARY RULE.—Notwithstanding any other provision of law, the award of funds under this section may not be used in any cause of action or administrative proceeding as evidence relating to the issue of desegregation of a public school of a local educational agency receiving such an award.

20 USC 3157.

"SEC. 4607. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993, to carry out the provisions of this part (other than section 4606).

"(b)(1) Subject to paragraph (2), there are authorized to be appropriated $35,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993 to carry out section 4606.

"(2) No appropriation may be made under paragraph (1) for any fiscal year unless the amount appropriated for the Magnet Schools Assistance Program in title III for that fiscal year is equal to or exceeds $165,000,000.

Drug-Free Schools and Communities Act of 1986.

"TITLE V—DRUG EDUCATION

20 USC 3171.

"SEC. 5101. SHORT TITLE.

"This title may be cited as the 'Drug-Free Schools and Communities Act of 1986'.

20 USC 3172.

"SEC. 5102. FINDINGS.

"The Congress finds that:

"(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

"(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

"(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

"(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

"(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

"(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

20 USC 3173.

"SEC. 5103. PURPOSE.

"It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

Grants.

"(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

Grants.
Contracts.

"(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

"(3) to States for development, training, technical assistance, and coordination activities;

"(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

"(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"SEC. 5111. AUTHORIZATION OF APPROPRIATIONS.

20 USC 3181.

"(a) In General.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) Availability.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

"(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

"SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS.

20 USC 3182.

"(a) Reservations.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

Territories, U.S.

"(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

Indians.

"(2) 1 percent for programs for Indian youth under section 5133;

"(3) 0.2 percent for programs for Hawaiian natives under section 5134;

"(4) 8 percent for programs with institutions of higher education under section 5131;

"(5) 3.5 percent for Federal activities under section 5132; and

"(6) 4.5 percent for regional centers under section 5135.

"(b) State Allotments.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

"(3) For purposes of this subsection, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"PART B—STATE AND LOCAL PROGRAMS

20 USC 3191.

"SEC. 5121. USE OF ALLOTMENTS BY STATES.

"(a) STATE PROGRAM.—An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

Grants.

"(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

20 USC 3192.

"SEC. 5122. STATE PROGRAMS.

Grants.
Contracts.

"(a) IN GENERAL.—Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

"(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

"(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

"(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

"(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

"(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

"(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program.

"(b) Innovative Programs.—(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

Grants.
Contracts.

"(2) For purposes of this subsection, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

"(A) is a school dropout;
"(B) has become pregnant;
"(C) is economically disadvantaged;
"(D) is the child of a drug or alcohol abuser;
"(E) is a victim of physical, sexual, or psychological abuse;
"(F) has committed a violent or delinquent act;
"(G) has experienced mental health problems;
"(H) has attempted suicide; or
"(I) has experienced long-term physical pain due to injury.

"SEC. 5123. STATE APPLICATIONS.

20 USC 3193.

"(a) In General.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

"(b) Contents of Applications.—The application submitted by each State under subsection (a) shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

"(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

"(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

Records.

"(5) contain assurances that there is compliance with the specific requirements of this part;

"(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

"(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

"(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

"(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

20 USC 3194.

"SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

"(a) Grants to Local and Intermediate Educational Agencies.—Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private nonprofit schools within the areas served by such agencies. Any amount of the funds made available for use in any area remaining unobligated for more than 1 year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

"(b) State Programs.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

"(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

"(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

"(3) demonstration projects in drug abuse education and prevention;

"(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

"(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

"SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS. 20 USC 3195.

"(a) IN GENERAL.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

"(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

"(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

"(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

"(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers;

"(5) programs of referral for drug abuse treatment and rehabilitation;

"(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

"(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

"(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

"(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

"(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

"(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

"(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

"(b) ELIGIBILITY.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

"SEC. 5126. LOCAL APPLICATIONS. 20 USC 3196.

"(a) IN GENERAL.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate edu- Grants.

cational agency or consortium shall submit an application to the State educational agency for approval.

"(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

"(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

"(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the practices and procedures it will enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;

"(G) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

"(H) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

"(I) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

"(J) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(K) provide assurances of compliance with the provisions of this part;

Records.

"(L) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

"(M) include such other information and assurances as the State educational agency reasonably determines to be necessary.

"(b) Progress Reports.—(1) An applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved.

"(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

"SEC. 5127. STATE REPORTS.

20 USC 3197.

"Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted under this Act in the State.

"PART C—NATIONAL PROGRAMS

"SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

20 USC 3211.

"(a) In General.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section. Contracts.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

"(b) Training Grants.—Training grants shall be available for—

"(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

"(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

"(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and Research and development.

"(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

Research and development.

"(c) GRANTS FOR MODEL DEMONSTRATION PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

"(d) GRANTS FOR PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

"(e) COLLABORATIVE EFFORTS.—In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

20 USC 3212.

"SEC. 5132. FEDERAL ACTIVITIES.

"(a) USE OF RESERVED FUNDS.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

"(b) FEDERAL DRUG ABUSE EDUCATION AND PREVENTION ACTIVITIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts—

Grants. Contracts.

"(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

"(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

"(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

"(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

Research and development.

"(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

"(c) Studies.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title. In addition the Secretary may conduct periodic evaluations of programs authorized by this Act.

Contracts.
Reports.

"SEC. 5133. PROGRAMS FOR INDIAN YOUTH.

20 USC 3213.

"(a) Use of Reserved Funds.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

Grants.

"(b) Financial Arrangements.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

Contracts.

"(c) Grant and Contract Authority.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

"(d) Additional Programs.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

"SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES.

20 USC 3214.

"(a) General Authority.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

Grants.
Contracts.

"(b) Definition of 'Hawaiian Native'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

20 USC 3215.

"SEC. 5135. REGIONAL CENTERS.

Grants.
Contracts.

"The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

"(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long-term effective drug and alcohol abuse programs, including long-range technical assistance, evaluation, and followup on such training;

"(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

"(3) assist local educational agencies and institutions of higher education in developing appropriate preservice and inservice training programs for educational personnel; and

"(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

"PART D—GENERAL PROVISIONS

20 USC 3221.

"SEC. 5141. DEFINITIONS.

"(a) General Rule.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

"(b) Specific Definitions.—For the purposes of this title, the following terms have the following meanings:

"(1) The term 'drug abuse education and prevention' means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

"(2) The term 'illicit drug use' means the use of illegal drugs and the abuse of other drugs and alcohol.

"(3) The term 'Secretary' means the Secretary of Education.

"(4) The term 'school-age population' means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school dropout' means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

"(6) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(7) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(8) The term 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'consortium' (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

"SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

20 USC 3222.

"(a) Administration.—The Secretary shall be responsible for the administration of the programs authorized by this title.

"(b) Applicability of General Education Provisions Act.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

20 USC 3223.

"SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

"(a) Participation of Private School Children.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

"(b) Participation of Private School Teachers.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

"(c) Waiver; Provision of Services by Secretary.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

20 USC 3224.

"SEC. 5144. MATERIALS.

"Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

"PART E—MISCELLANEOUS PROVISIONS

20 USC 3231.

"SEC. 5191. INDIAN EDUCATION PROGRAMS.

"(a) Pilot Programs.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot pro-

Appropriation authorization.

grams there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

"(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

"(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

"(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

"(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

20 USC 3232.

"SEC. 5192. TRANSITION.

"Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

School Dropout Demonstration Assistance Act of 1988.
20 USC 3241.

"SEC. 6001. SHORT TITLE.

"This part may be cited as the 'School Dropout Demonstration Assistance Act of 1988'.

20 USC 3242.

"SEC. 6002. PURPOSE.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

"(1) effective programs to identify potential student dropouts and prevent them from dropping out;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

20 USC 3243.

"SEC. 6003. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $50,000,000 for the fiscal year 1989.

20 USC 3244. "SEC. 6004. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6003 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

"(2) Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6005 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

"(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(f) FEDERAL SHARE.—(1) The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part, and

"(B) 75 percent of such cost for the second such year.

"(2) The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 6005. APPLICATION. 20 USC 3245.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation. Grants.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 5141(b)(5); and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

"(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this part, such as—

"(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

"(B) addressing the special needs of school-age parents;

"(C) disseminating information to students, parents, and the community related to the dropout problem;

"(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

Communications and telecommunications.

"(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

"(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

"(G) establishing annual procedures for—

"(i) evaluating the effectiveness of the project; and

"(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

"(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

"(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

"(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) Priority.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6004(a).

"(d) Special Consideration.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"SEC. 6006. AUTHORIZED ACTIVITIES.

20 USC 3246.

Grants.

"(a) In General.—Grants under this part shall be used to carry out plans set forth in applications approved under section 6005. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

Contracts.

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school staff on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between handicapping conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

Communications and telecommunications.

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

"(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part.

Grants.

"(b) Activities for Educational Partnerships.—Grants under this part may be used by educational partnerships for—

Employment and unemployment.

"(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(2) internship, work study, or apprenticeship programs;

"(3) summer employment programs;

"(4) occupational training programs;

"(5) career opportunity and skills counseling;

"(6) job placement services;

"(7) the development of skill employment competency testing programs;

"(8) special school staff training projects; and

"(9) any other activity described in subsection (a).

Grants.
20 USC 3247.

"SEC. 6007. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) Distribution of Assistance.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 6004(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

"(b) Administrative Costs.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

Secondary Schools Basic Skills Demonstration Assistance Act of 1988.
20 USC 3261.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

"SEC. 6101. SHORT TITLE.

"This part may be cited as the 'Secondary Schools Basic Skills Demonstration Assistance Act of 1988'.

Disadvantaged persons.
20 USC 3262.

"SEC. 6102. PURPOSE.

"It is the purpose of this part to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 3263.

"SEC. 6103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1989.

"SEC. 6104. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

20 USC 3264.

"(a) General Authority.—From the amount appropriated under section 6103 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this part.

"(b) Community-Based Organizations Rule.—Each local educational agency may carry out the activities described in section 6105 in cooperation with community-based organizations.

"(c) Eligible Students.—Secondary school students who meet the requirements of part A of chapter 1 of title I of this Act other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this part.

"SEC. 6105. AUTHORIZED ACTIVITIES.

20 USC 3265.

"(a) In General.—Funds made available under this part may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches—

"(A) for surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

Employment and unemployment.

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of this Act, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) Limitation.—Not more than 25 percent of amounts available to a local educational agency under this part may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

20 USC 3266.

"SEC. 6106. APPLICATION.

Grants.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall include—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this part);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

"(6) a statement of the methods which will be used—

"(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

Disadvantaged persons.
Handicapped persons.

"(B) an assurance that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of this Act;

"(9) a description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

Disadvantaged persons.

"(A) demonstrate the greatest need for services assisted under this part based on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

"(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

"(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

Urban areas.
Rural areas.

"(d) Administrative Costs.—Not more than 5 percent of any grant under this part may be used for administrative costs.

"PART C—GENERAL PROVISIONS

"SEC. 6201. GENERAL PROVISIONS.

20 USC 3271.

"(a) Definition of School Dropout.—The Secretary shall, not later than 60 days after the date of the enactment of this title, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups. If the Secretary has defined the term 'school dropout' for fiscal year 1988 that definition shall apply for the purposes of this section.

"(b) Timely Award of Grants.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this part not later than June 30 preceding such fiscal year.

"(c) Grants Must Supplement Other Funds.—A local educational agency receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

"(d) Evaluation.—The Secretary shall evaluate programs operated with funds received under this title, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991.

Reports.

"(e) Coordination and Dissemination.—The Secretary shall require local educational agencies receiving grants under this title to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(f) Audit.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

"(g) Withholding Payments.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6105 or section 6106, the Secretary shall withhold payments under this title in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

"SEC. 6202. DEFINITIONS.

20 USC 3272.

"(a) As used in this title—

"(1) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(2) The term 'basic skills' includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

Bilingual Education Act.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

20 USC 3281.

"SEC. 7001. SHORT TITLE.

"This title may be cited as the 'Bilingual Education Act'.

20 USC 3282.

"SEC. 7002. POLICY; APPROPRIATIONS.

"(a) POLICY.—Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

"(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

"(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(9) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(11) that children of limited English proficiency have a high dropout rate and low median years of education;

"(12) that the segregation of many groups of limited English proficient students remains a serious problem;

"(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;

"(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

"(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;

"(16) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

"(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(18) that parent and community participation in bilingual education programs contributes to program effectiveness; and

"(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

"(b) AUTHORIZATION.—(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), $200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.

"(2) There are further authorized to be appropriated to carry out the provisions of section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary may reserve not to exceed 25 percent for special alternative instructional programs and related activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) Notwithstanding paragraphs (1) and (2), no amount in excess of $200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).

"(7) The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to which section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

20 USC 3283.

"SEC. 7003. DEFINITIONS; REGULATIONS.

"(a) GENERAL RULE.—The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant; and

"(C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which—

"(i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or

"(ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b) REGULATION REQUIREMENT.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

"(c) SPECIAL INFORMATION RULE.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

Grants.
20 USC 3291.

"(a) USES OF FUNDS.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs; and

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

"(b) APPLICATIONS.—(1) A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by 1 or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with 1 or more local educational agencies.

"(2) A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local educational agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

"(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) An application for a grant under subsection (a)(3) of this section shall receive priority if the application—

"(A) describes the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language,

"(B) describes the unavailability of personnel qualified to provide bilingual instructional services, or

"(C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d) DURATION OF GRANTS.—(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.

"(B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

"(C) Upon reapplication, grants authorized under subsections (a) (1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"(2) Grants made pursuant to subsections (a)(4), (a)(5), and (a)(6) shall be for 3 years.

"(3)(A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled—

"(i) conducts a comprehensive evaluation of the overall academic progress of the student, and

"(ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program. Handicapped persons.

Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

"(B)(i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.

"(ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.

"(iii) Each evaluation shall indicate how the students' English language development will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

"(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

"(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by—

"(i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;

"(ii) lowering per pupil ratios, including the use of professional and volunteer aides; and

"(iii) the application of technology to the course of instruction.

"(e) APPLICATION REQUIREMENTS.—An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served;

"(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and

"(5) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) APPROVAL OF APPLICATIONS.—An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

Handicapped persons.

"(4) that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act;

"(5) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

"(A) preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(6) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(7) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

"(8) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

"(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

Disadvantaged persons.

"(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs; and

"(9) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(g) PRIORITY CONSIDERATION OF GRANTS.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) PRIORITY FOR PROGRAMS SERVING UNDERSERVED CHILDREN.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

"(i) LIMITATION ON THE ASSIGNMENT OF STUDENTS.—No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

"(j) PROGRAMS IN PUERTO RICO.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(k) BYPASS PROVISION.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

"SEC. 7022. INDIAN CHILDREN IN SCHOOLS.

20 USC 3292.

Alaska.

"(a) Eligible Entities.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) Bureau of Indian Affairs Schools.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) Annual Report.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"SEC. 7031. USE OF FUNDS.

20 USC 3301.

"Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

20 USC 3302.

"SEC. 7032. GRANTS FOR STATE PROGRAMS.

"(a) Data Collection and Dissemination.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) Report to Secretary.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

Regulations.
Public information.

"(c) Other Uses of Funds.—State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) Payments.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year may not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) Supplement Not Supplant.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

Regulations.
20 USC 3303.

"The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;

"(4) the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and

"(5) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

"SEC. 7034. EVALUATION ASSISTANCE CENTERS.

Grants.
20 USC 3304.

"The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

"SEC. 7035. RESEARCH.

20 USC 3305.

Contracts.

"(a) Research and Development.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) Authorized Activities.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

"(9) studies to determine effective and reliable techniques for providing bilingual education to handicapped students;

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and

"(11) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

"(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) LIMITATION OF AUTHORITY.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

20 USC 3306.

"SEC. 7036. COORDINATION OF RESEARCH.

"Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on

Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"SEC. 7037. EDUCATION STATISTICS. 20 USC 3307.

"(a) DATA COLLECTION.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) USE OF DATA.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"SEC. 7041. USE OF FUNDS. 20 USC 3321.

"(a) USE OF FUNDS.—Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

Grants. Contracts.

"(b) Applications.—(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) Application Requirement for Training Programs.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

"(d) Training Program Requirements.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

Grants. Contracts.

"(e) Preference in Assistance and Purpose of Training.—(1) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(A) teaching English as a second language;

"(B) use of a non-English language for instructional purposes;

"(C) linguistics; and

"(D) evaluation and assessment;

and which involve parents in the educational process.

"(2) Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

20 USC 3322.

"SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.

Grants. Contracts.

"(a) Establishment.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) Required Services.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"SEC. 7043. FELLOWSHIPS.

20 USC 3323.

"(a) AUTHORIZATION.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

"(b) FELLOWSHIP REQUIREMENTS.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"SEC. 7044. PRIORITY.

Grants.
Contracts.
20 USC 3324.

"In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

"SEC. 7045. STIPENDS.

20 USC 3325.

"In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

"SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

20 USC 3331.

"(a) ESTABLISHMENT.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

Reports.

"(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on—

"(A) the grants and contracts made pursuant to this title in the preceding fiscal year;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

"(D) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and

"(E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

"(c) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

"(d) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"(e) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

"SEC. 7052. LIMITATION OF AUTHORITY.

20 USC 3332.

"The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7063. TRANSITION.

20 USC 3341.

"This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) In General.—Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively.

20 USC 3381–3384, 3386.

(b) Special Definition Rule.—Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"DEFINITIONS

"Sec. 8001. Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act."

20 USC 3381.

SEC. 1003. REPEALS.

(a) Education Consolidation and Improvement Act of 1981.—The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

(b) Ellender Program.—The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

(c) Immigrant Education.—Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

(d) Territorial Assistance.—Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

(e) Anti-Drug Abuse Act of 1986.—Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed.

20 USC 4601 *et seq.*

SEC. 1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM.

20 USC 3245 note.

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

PART A—IMPACT AID PROGRAM

Impact Aid Reauthorization Act of 1988.
20 USC 236 note.

SEC. 2001. SHORT TITLE.

This part may be cited as the "Impact Aid Reauthorization Act of 1988".

Subpart 1—Public Law 874

SEC. 2011. ADMINISTRATIVE AMENDMENTS.

20 USC 236 *et seq.*

(a) General Rule.—(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this subpart as the "Act") is amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

20 USC 240.

(2) Section 5(b)(3)(C)(vii) of the Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

20 USC 244.

(3) Section 403(9) of the Act is amended to read as follows:

"(9) The term 'Secretary' means the Secretary of Education.".

20 USC 241-1.

(b) Special Rules.—(1) Section 7(c)(1) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(2) The last sentence of section 7(d) of the Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2012. REAUTHORIZATION.

(a) Extension of Program.—The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

20 USC 237-239, 241-1.

20 USC 236.

(b) Authorization of Appropriations.—The first section of the Act is amended—

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $735,000,000 for fiscal year 1989, $785,000,000 for fiscal year 1990, $835,000,000 for fiscal year 1991, $885,000,000 for fiscal year 1992, and $935,000,000 for fiscal year 1993, to carry out the provisions of this Act.".

Taxes.

SEC. 2013. FEDERAL ACQUISITION OF REAL PROPERTY.

Section 2(a) of the Act is amended by adding at the end of such subsection the following: "In making the determination of the amount that would have been derived in such year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed for fiscally dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property.".

SEC. 2014. ENTITLEMENTS AND PAYMENTS.

(a) Amount for Section 3(a) Children.—Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) Amount for Other Children.—Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

(c) Special Rules.—(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows: 20 USC 238.

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year to the prior fiscal year;".

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i). For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.". Taxes.

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph—

"(i) available funds may not include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds may not include 30 percent of the local educational agency's operating costs.".

(d) Districts With Unusual Geographic Factors.—(1) Section 3(d)(3)(B)(ii) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 3(d)(3)(B)(ii) of the Act is amended by adding at the end thereof the following new sentence: "The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.".

(e) Coterminous Agency Rule.—Section 3(h) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for coterminous local educational agencies under paragraph (1) shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made unless such payment would raise the per pupil expenditure above the average for that State. Whenever the preceding sentence applies, the local contribution rate may not be less than the amount necessary to raise the per pupil expenditure for that district to the average per pupil expenditure for the State in which such agency is located. The first 2 sentences of this paragraph shall not apply for local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law would require that the State contribution would be reduced in proportion to such additional funds. The local contribution rate for local educational agencies under this paragraph may not be less than 50 per centum of the average per pupil expenditure in all States during the second preceding fiscal year prior to the fiscal year for which the determination is made.".

SEC. 2015. METHOD OF PAYMENT.

(a) ROUNDING OF PAYMENTS.—The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,". 20 USC 240.

(b) DISPOSITION OF RECOVERED FUNDS.—Section 5(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following sentence: "The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal years 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were appropriated, or that remain in Department of Education accounts after that time.".

(c) PRELIMINARY PAYMENTS.—Section 5(b)(2) of the Act is amended to read as follows:

"(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

"(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

"(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.".

(d) GENERAL RULE ON PAYMENTS.—Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to the supplemental 50 per centum of the entitlement that each child described in section 3(d)(2)(C) served by such agency is eligible to receive under section 3(d)(2)(C).

"(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

"(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).".

(e) ALLOCATION OF PAYMENTS RULE.—(1) Section 5(c)(2) of the Act is amended to read as follows: 20 USC 240.

"(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement to each local educational agency under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses shall be ratably reduced. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 240. (2)(A) Section 5(c)(3) of the Act is repealed.

(B) The sentence following paragraph (2) of section 5(c) (as amended by subparagraph (A)) is amended by striking out "or (3)".

(C) The last sentence of section 5(c) of the Act is repealed. 20 USC 240.

(f) State Aid Rule.—Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(g) Hold Harmless Rules.—Section 5(e) of the Act is amended to read as follows:

"(e)(1)(A) For any fiscal year after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

"(B) For any fiscal year beginning after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

"(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational agency for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

"(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

"(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

"(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous paragraph, such amounts shall be ratably reduced.

"(3) In no event shall the amount allocated to any local educational agency in any fiscal year under paragraph (1) exceed the amount received by such agency in the fiscal year 1987.".

SEC. 2016. CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION.

Section 6 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 241.

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

SEC. 2017. DISASTER ASSISTANCE.

(a) General Rule.—Section 7(a)(1) of the Act is amended— 20 USC 241-1.

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

20 USC 241-1. (b) ELIGIBILITY.—Section 7(a)(3) of the Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

(c) AVAILABILITY OF FUNDS.—Section 7 of the Act is amended by adding at the end thereof the following new subsection (f):

"(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

20 USC 238 note.

SEC. 2018. TREATMENT OF CHILDREN RESIDING ON PROPERTY ASSISTED UNDER SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937.

Claims. (a) GENERAL RULE.—Notwithstanding any other provision of law, for fiscal years prior to fiscal year 1989, applicants may claim and receive payments under section 3 of Public Law 81-874 on behalf of children residing in or whose parents are employed on property assisted under section 8 of the United States Housing Act of 1937, if such property was claimed by such applicants and such payments were received for the previous fiscal year.

(b) SPECIAL RULE.—Payments made to any local educational agency under section 3(b) of the Act for fiscal years prior to fiscal year 1989, on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, shall stand, and such payments withheld or recovered shall be made or restored.

SEC. 2019. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

20 USC 238. Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended by adding at the end thereof the following: "Funds received under this section may be used to pay tuition for any student not eligible for funding under section 1128 of Public Law 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.".

20 USC 236 note.

SEC. 2020. REGULATION REQUIREMENTS.

No regulations may be established to carry out the provisions of this Act unless such regulations will become final only after a period for comment which is not less than 90 days. No provision of the regulations may have a retroactive effect which results in the recovery of assistance by the United States (other than such recovery based on regulations in effect at the time the assistance was made). To the extent that the provisions of section 431 of the General Education Provisions Act are not inconsistent with the provisions of this section, the provisions of section 431 shall apply to regulations established under this Act.

SEC. 2021. DEFINITION.

20 USC 244. Section 403(5) of the Act is amended by striking out "under title I, II, or III" and inserting in lieu thereof "under chapter 1 or 2 of title I".

Subpart 2—Public Law 815

SEC. 2031. REAUTHORIZATION.

(a) Extension of Program.—The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) in section 3 by striking "1988" and inserting "1993"; 20 USC 633.

(2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and 20 USC 646.

(3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989". 20 USC 645.

(b) Authorization of Appropriations.—The first section of such Act is amended— 20 USC 631.

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $26,000,000 for fiscal year 1990, $27,000,000 for fiscal year 1991, $28,000,000 for fiscal year 1992, and $29,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2032. ADMINISTRATIVE AMENDMENTS.

(a) General Rule.—(1) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is further amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary". 20 USC 631 *et seq.*

(2) Section 11(b) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's". 20 USC 641.

(3) Section 15(14) of such Act is amended to read as follows: "(14) The term 'Secretary' means the Secretary of Education.".

(b) Special Rule.—The fifth sentence of section 16(c) of such Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.". 20 USC 646.

SEC. 2033. DISASTER ASSISTANCE.

(a) General Rule.—Section 16(a)(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) Eligibility.—Section 16(a)(5) of such Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

SEC. 2034. TECHNICAL AMENDMENT.

Section 14 of the Act is amended— 20 USC 644.

(1) by striking out subsection (d); and

(2) by adding after subsection (c) the following:

"(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.". Appropriation authorization.

Adult Education Amendments of 1988.
20 USC 1201 note.

PART B—ADULT EDUCATION

SECTION 2101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1988".

SEC. 2102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

Adult Education Act.

"TITLE III—ADULT EDUCATION PROGRAMS

20 USC 1201 note.

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

20 USC 1201.

"SEC. 311. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

20 USC 1201a.

"SEC. 312. DEFINITIONS.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who are not enrolled in secondary school;

"(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(C) who are not currently required to be enrolled in school; and

"(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 481 of the Higher Education Act of 1965.

"(11) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(12) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(13) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(14) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

"(15) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

20 USC 1201b.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993 to carry out the provisions of this title (other than sections 371 and 372).

Territories, U.S.

"(b) ALLOTMENT.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States.

"(c) REALLOTMENT.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

"(d) RESERVATION OF FUNDS FOR NATIONAL PROGRAMS.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in part D, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS.

20 USC 1203.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS.

20 USC 1203a.

"(a) USE OF FUNDS.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization.

Contracts.

"(3) The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4)(A) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(B) The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this subpart exceeds the amounts available for such grants in fiscal year 1988.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) Not less than 10 percent of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with subpart 2.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

20 USC 1203b.

"SEC. 323. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—Programs for Corrections Education and Education for Other Institutionalized Individuals

20 USC 1204.

"SEC. 326. PROGRAM AUTHORIZED.

"Funds set aside under section 322(b)(1) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

"(1) academic programs for—

"(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

"(B) special education programs as defined by State law;

"(C) bilingual or English as a second language programs; and

"(D) secondary school credit programs;

"(2) vocational training programs;

"(3) library development and library service programs;

"(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly courses in social education, basic skills instruction, and abnormal psychology;

"(5) guidance and counseling programs;

"(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

"(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

"(b) As used in this section, the term—

"(1) 'criminal offender' means any individual who is charged with or convicted of any criminal offense; and

"(2) 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"Subpart 3—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION.

20 USC 1205.

"(a) State Agency Responsibilities.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) State Imposed Requirements.—Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

Effective date.

"(c) Limitation on State Administrative Costs.—Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION.

20 USC 1205a.

"(a) Requirement.—(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this subpart for the purposes of this subsection.

"(b) Representation on Council.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) Certification.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) Procedures.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) Terms.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) Duties.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

"Subpart 4—Planning and Applications

"SEC. 341. STATE PLAN AND APPLICATION.

20 USC 1206.

"(a) Requirement.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) Procedure for Submission and Consideration.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA Provision.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN.

20 USC 1206a.

"(a) Procedures Required in Formulating State Plan.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 332 of this title.

Public information.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary.

"(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Required Assessments.—In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

"(c) COMPONENTS OF STATE PLAN.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

Disadvantaged persons.

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7004(a) of title VII of the Elementary and Secondary Education Act of 1965 or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

Handicapped persons.
Homeless persons.
Disadvantaged persons.
Minorities.

"(7) describe how the particular educational needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purpose of this title during the 4-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to assure maximum use of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 382 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"(d) LIMITED ENGLISH PROFICIENCY RULE.—Programs conducted under subsection (c)(6) shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

"SEC. 343. STATE APPLICATIONS.

20 USC 1206b.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant such State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

"Subpart 5—Evaluation and State Plan Amendments

20 USC 1207.

"SEC. 351. STATE PLAN AMENDMENTS.

"(a) TIMELY SUBMISSION.—When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

"(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"(c) TRANSITION RULE.—Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

Grants.
20 USC 1207a.

"SEC. 352. EVALUATION.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

"(1) annually submit data to the Secretary with respect to grant recipients;

"(2) before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider—

"(A) the planning and content of the program;

"(B) the curriculum, instructional materials, equipment, and qualifications of all personnel;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other factors determined to affect program operation; and

"(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 6—Demonstration Projects

20 USC 1208.

"SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) USE OF FUNDS.—Of the funds allotted to a State under section 313 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national significance or will be of special value in promoting effective programs under this title, or

"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) Applications.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 7—Federal Share; Federal Administrative Responsibilities

"SEC. 361. PAYMENTS. 20 USC 1209.

"(a) Federal Share.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be— Territories, U.S.

"(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

"(2) 85 percent of such cost for fiscal year 1990;

"(3) 80 percent of such cost for fiscal year 1991; and

"(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share of such cost shall be 100 percent.

"(b) Maintenance of Effort.—(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

20 USC 1211.

"SEC. 371. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

"(a) Grants for Exemplary Demonstration Partnerships for Workplace Literacy.—(1) Subject to subsection (b), the Secretary shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 342 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

"(A) includes in a State plan submitted to the Secretary under section 342 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3) shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

Territories, U.S.

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this part) for that year is equal to or greater than $110,000,000.

"(3) Amounts appropriated under this subsection shall remain available until expended.

20 USC 1211a.

"SEC. 372. ENGLISH LITERACY GRANTS.

"(a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 342 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 342 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) Set-Aside for Community-Based Organizations.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) Report.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

Contracts.

"(d) Demonstration Program.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

Public information.

"(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs.

"(e) Evaluation and Audit.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) Authorization of Appropriations.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d).

"(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

"PART D—NATIONAL PROGRAMS

Grants.

"SEC. 381. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

20 USC 1213.

"(a) General Authority.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included

Contracts.

in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

"(b) PRIORITY.—In carrying out the provisions of this part, the Secretary shall from funds reserved under section 313(d) give first priority to the portion of the program described in subsection (a) for migrant farmworkers.

20 USC 1213a.

"SEC. 382. ADULT LITERACY VOLUNTEER TRAINING.

Aged persons.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"(b) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give second priority to the portion of the program described in subsection (a) for adult volunteers.

20 USC 1213b.

"SEC. 383. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) FEDERAL ASSISTANCE.—(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance shall include, but are not limited to—

"(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

Public information.

"(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(2) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give third priority to the portion of the program described in paragraph (1) for evaluation and research.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first 2 years after enactment of the Adult Education Amendments of 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of illiterate individuals required in subsection (b), the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation.

"(d) Evaluation Report.—Three years after the date of enactment of the Adult Education Amendments of 1988, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 384. NATIONAL RESEARCH ACTIVITIES.

20 USC 1213c.

"(a) Approved Activities.—The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

Contracts.

"(b) Research Concerning Special Needs.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 313(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations.

Contracts.

"SEC. 385. LIMITATION.

20 USC 1213d.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.".

PART C—EDUCATION FOR ECONOMIC SECURITY

SEC. 2301. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

(2) by striking "1986," and inserting "1986 and"; and

Appropriation authorization.

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

SEC. 2302. STAR SCHOOLS PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools Program Assistance Act. Communications and telecommunications. 20 USC 4081 note.

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

20 USC 4081.

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

Grants. 20 USC 4082.

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $60,000,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of— 20 USC 4083.

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership which includes three or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of the Elementary and Secondary Education Act of 1965, Indians.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such 20 USC 4084.

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time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965) in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

Disadvantaged persons.

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) Approval of Application; Priority.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

Disadvantaged persons.

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965), programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) Geographic Distribution.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants. Grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"Sec. 906. (a) Report.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission. 20 USC 4085.

"(b) Dissemination of Courses of Instruction.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

20 USC 4086.

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 1471(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(16) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 2303. REPEAL.

Titles II, IV, VI, and VII of the Education for Economic Security Act are repealed.

20 USC 3961-3973, 4001-4003, 4031, 4031 note, 4032-4037, 4051-4062.

PART D—VOCATIONAL EDUCATION

SEC. 2401. TECHNICAL AMENDMENT.

(a) USES OF FUNDS.—Section 201 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2331) is amended—

(1) in subsection (b)(4), by striking "or homemakers;" and inserting ", homemakers, or single pregnant women;"; and

(2) in subsection (f), by striking "and homemakers" each place it appears and inserting ", homemakers, and single pregnant women".

(b) DISTRIBUTION OF ASSISTANCE.—Section 202(a)(4) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332(4)) is amended by striking "and homemakers;" and inserting ", homemakers, or single pregnant women;".

(c) CONFORMING AMENDMENT.—Section 202 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 2402. THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

(a) In General.—From funds appropriated for the fiscal year 1987 for section 404 of the Carl D. Perkins Vocational Education Act of 1984, the Secretary of Education shall provide financial assistance to a Center for Research in Vocational Education at The Ohio State University in the amount of $2,000,000 and the University of California at Berkeley in the amount of $2,000,000 to support ongoing activities, but not to support any new hiring after April 10, 1988, through December 31, 1988. Funds allocated to either institution shall be shared equitably according to the expenses of all subcontractors. The funds made available under this section shall not be affected by the outcome of the final decision on a grant award recipient for the National Center for Research in Vocational Education. Any funds received under this section shall be deducted from the total award made for a National Center for the 1988 grant award year.

(b) Construction.—Nothing in this section shall be construed to affect the decision with respect to the location of the National Center for Research in Vocational Education.

PART E—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

Comprehensive Child Development Centers Act of 1988.
42 USC 9801 note.

SEC. 2501. SHORT TITLE.

This part may be cited as the "Comprehensive Child Development Centers Act of 1988".

SEC. 2502. STATEMENT OF PURPOSE.

42 USC 9881 note.

It is the purpose of this part to provide financial assistance to projects, on a multiyear basis, that—

(1) are designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families;

(2) will enhance their physical, social, emotional, and intellectual development and provide support to their parents and other family members; and

(3) target services on infants and young children from families who have incomes below the poverty line and who, because of environmental, health, or other factors, need intensive and comprehensive supportive services to enhance their development.

SEC. 2503. PROGRAM AUTHORIZED.

Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 et seq.) is amended by adding at the end the following:

"Subchapter E—Comprehensive Child Development Program

Comprehensive Child Development Act.
Grants.
42 USC 9801 note.

"SHORT TITLE

"Sec. 670M. This subchapter may be cited as the "Comprehensive Child Development Act".

"CHILD DEVELOPMENT PROJECTS

42 USC 9881.
Urban areas.
Rural areas.
Disadvantaged persons.

"SEC. 670N. (a)(1) The Secretary is authorized to make operating grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

Contracts.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10, but not more than 25, eligible agencies to carry out this section.

"(3) In carrying out this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the project for which assistance is sought;

"(B) the proximity of the eligible agency and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of intensive and comprehensive support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project, and

"(F) the eligible agency's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of section 2402 of the Comprehensive Child Development Centers Act of 1988,

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such infants and young children will be met by the project;

"(D) describe the intensive and comprehensive supportive services that project planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the entities that the eligible agency intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered;

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the project; and

"(I) contain such other information as the Secretary may reasonably require.

Disadvantaged persons.

"(c)(1)(A) The Secretary shall make operating grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(C) In making operating grants in a fiscal year, the Secretary shall give priority to eligible entities that received operating grants under this section for the preceding fiscal year.

"(2)(A) To be eligible to receive an operating grant under this section, an eligible agency shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section, and

"(ii) submit an operating grant application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for intensive and comprehensive support services;

"(iv) identify the referral providers, agencies, and organizations that the eligible entity will use to carry out the project for which such operating grant is requested;

"(v) provide assurances that intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to infants and young children, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the project for which such operating grant is requested, from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and met, and such other information as the Secretary may require;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the project,

"(II) individuals with expertise in furnishing services the project offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the project will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, and agree to submit such necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in such applications.

"(B) The Federal share of such costs shall be 80 percent for each fiscal year.

"(C) The non-Federal share of such costs may be provided in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested in order to carry out the evaluation required by paragraph (1).

Reports.

"(f) Not later than October 1, 1993, the Secretary shall prepare and submit to the Congress a report on the evaluation required by subsection (e)(1), together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"LIMITATION

42 USC 9882.

"SEC. 670O. For purposes of making any grant under section 670N, the Secretary may not take into consideration whether the applicant for such grant applies for or receives funds under subchapter B.

"APPLICABILITY OF CERTAIN RULES AND REGULATIONS

"SEC. 670P. Except when inconsistent with the provisions of this subchapter, the rules and regulations prescribed by the Secretary, as in effect from time to time, to carry out subchapter B shall apply to carrying out this subchapter to the extent that services provided under this subchapter are similar to services provided under subchapter B. 42 USC 9883.

"CONTINUING EVALUATION OF PROJECTS

"SEC. 670Q. (a) The Secretary shall provide, directly or through grants and contracts, for the continuing evaluation of projects under this subchapter in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services. Such evaluation shall include— 42 USC 9884. Contracts.

"(1) evaluations that measure the impact of such projects; and

"(2) where appropriate, comparisons of individuals who participate in such projects with appropriate control groups composed of individuals who do not participate in such projects.

"(b) Each evaluation conducted under subsection (a) of a project shall be conducted by persons who are not directly involved in the administration of such project.

"(c) In carrying out subsection (a), the Secretary may require eligible agencies to provide for independent evaluations.

"GENERAL ADMINISTRATION

"SEC. 670R. The Secretary shall carry out this subchapter through the administrative entity of the Department of Health and Human Services used by the Secretary to carry out subchapter B. 42 USC 9885.

"DEFINITIONS

"SEC. 670S. As used in this subchapter— 42 USC 9886.

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act (20 U.S.C. 1472(2));

"(2) the term 'eligible agency' means a Head Start agency, an agency that is eligible to be designated as a Head Start agency under section 641, a community-based organization, an institution of higher education, a public hospital, a community development corporation, or a public or private nonprofit agency or organization specializing in delivering social services to infants or young children;

"(3) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(4) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and such term includes infant and child health services (including screening and referral), child care that meets State licensing requirements, early childhood development programs, early intervention services for children with or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and such term includes prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(5) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(6) the term 'low income' means persons who are from families having incomes below the poverty line as determined and revised in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(7) the term 'Secretary' means the Secretary of Health and Human Services.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 9887.

"Sec. 670T. (a) Subject to subsection (b), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this subchapter.

"(b) Notwithstanding any other provision of law, no funds shall be available for fiscal year 1989 or 1990 to carry out this subchapter if the amount appropriated for such fiscal year to carry out subchapter B is less than 104 percent of the amount appropriated for the preceding fiscal year to carry out subchapter B.

"(c) Funds made available in accordance with this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which such funds are appropriated.".

SEC. 2504. CONFORMING AMENDMENTS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) by inserting "(a)" after "Sec. 638."; and

(2) by adding at the end thereof the following:

"(b) For purposes of providing financial assistance under subsection (a) to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter E.".

PART F—HIGHER EDUCATION

SEC. 2601. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

20 USC 1071.

(a) Amendment to Title of Program.—Section 421 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by adding at the end the following new subsection:

"(c) The program established under this part may be referred to as the 'Robert T. Stafford Student Loan Program'.".

20 USC prec. 1071.

(b) Conforming Amendment.—The heading for Part B of title IV of the Act is amended to read as follows: "Part B—Robert T. Stafford Student Loan Program".

TITLE III—EDUCATIONAL ASSESSMENT, ACHIEVEMENT, AND ADMINISTRATION

PART A—STATISTICS

SEC. 3001. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended— 20 USC 1221e-1.

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following: "The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.".

Public information.

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for terms of 4 years, except that the initial appointment shall commence June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

(3) TRANSITION PROVISION.—During the period beginning on the date of the enactment of this Act and ending on the date that an appointment is made pursuant to section 406(a)(2)(A) (as inserted by

20 USC 1221e-1 note.

paragraph (1)), the individual serving as the director of the Center for Education Statistics on the date of the enactment of this Act may serve as acting Commissioner.

20 USC 1221e-1.

(c) ADVISORY COUNCIL ON EDUCATION STATISTICS.—Section 406(c) of the Act is amended—

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting a comma; and

(C) by adding at the end the following subparagraphs:

"(D) Commissioner of Education Statistics, and;

"(E) Chairman, National Commission on Libraries and Information Science.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) CONDITION OF EDUCATION REPORT.—Section 406(d) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by adding "and" at the end of subparagraph (B);

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking all of subparagraph (D);

(2) by redesignating paragraph "(2)" as paragraph "(3)"; and

(3) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) AUTHORITY OF COMMISSIONER.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

Contracts.

"(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

Reports.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

Reports.

"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner.

"(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

"(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

"(9) The Commissioner is authorized to—

"(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

"(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.".

20 USC 1221e-1.

(f) REPORTS ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by inserting after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) SPECIAL STUDY PANEL ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended by adding after paragraph (2) (as added by subsection (F)) the following new paragraph:

Reports.

"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

Termination date.

20 USC 1221e-1.

(h) DROPOUT AND RETENTION STUDY AND REPORTS.—Section 406(g) of the Act is amended by adding after paragraph (3) (as added by subsection (g)) the following new paragraph:

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) FINANCIAL AID STUDIES.—Section 406(g) of the Act is amended by adding after paragraph (4) (as added by subsection (h)) the following new paragraph:

Reports.

"(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study "

"(B) Concurrent with each survey, the Center shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.".

(j) DECENNIAL ANALYSIS OF SCHOOL DISTRICTS.—Section 406(g) of the Act is amended by adding after paragraph (5) (as added by subsection (i)) the following new paragraph:

Reports.

"(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.".

(k) NATIONAL LONGITUDINAL SURVEY.—Section 406(g) of the Act is amended by adding after paragraph (6) (as added by subsection (j)) the following new paragraphs:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

Libraries.

"(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system. Attention should be given to insuring timely, consistent and accurate reporting.".

20 USC 1221e-1.

(l) SCHOOL REFORM EFFORTS STUDY.—Section 406(g) of the Act is amended by adding after paragraph (8) (as added by subsection (k)) the following new paragraph:

"(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.".

(m) CONFIDENTIAL TREATMENT OF DATA.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) No department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E)), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

"(F) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

20 USC 1221e-1. (n) EDUCATION INFORMATION AND DATA.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by redesignating subsection (h) as subjection (i);

(3) by inserting after subsection (g) a new subsection (h):

Establishment. "(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) the availability and use of school libraries and their resources;

"(iv) teachers, librarians, and school administrators;

"(v) the financing of elementary and secondary education;

"(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vii) the progress of education reform in the States and the Nation; and

Contracts. "(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

"(3) To establish and maintain the system, the Commissioner—

"(A) shall—

"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and

"(ii) to the extent possible, implement standard definitions and data collection procedures; and

"(B) may—

"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and

"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.";

(4) in subsection (f)—

(A) by inserting "(1)" after "(f)"; and

(B) by adding after paragraph (1) the following paragraphs:

Contracts.

"(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State—

"(A) of meeting the information and data gathering requirements in compliance with such subsection; or

"(B) for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.".

20 USC 1221e-1.

(o) State Training Program.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)".

(p) Authorization of Appropriations.—

(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:

"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

(2) Section 405(f)(1) of the Act is amended by striking "and section 406 of this Act".

20 USC 1221e.

(q) Conforming Amendments.—The heading of section 406 of the Act is amended to read as follows:

"NATIONAL CENTER FOR EDUCATION STATISTICS".

SEC. 3002. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the Elementary and Secondary Education Act of 1965 and chapter 1 of the Education Consolidation and Improvement Act of 1981".

PART B—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

Fund for the Improvement and Reform of Schools and Teaching Act.
20 USC 4801 note.

SEC. 3201. SHORT TITLE.

This part may be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act".

20 USC 4801.

SEC. 3202. ESTABLISHMENT OF FUND.

There is established a Fund for the Improvement and Reform of Schools and Teaching.

Subpart 1—Grants for Schools and Teachers

20 USC 4811.

SEC. 3211. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

Contracts.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, nonprofit organizations, individual schools, consortia of such schools, and consortia of such schools and institutions, to improve educational opportunities for and the performance of elementary and secondary school students and teachers by—

(1) helping educationally disadvantaged or at risk children meet higher educational standards;

(2) providing incentives for improved performance;

(3) strengthening school leadership and teaching;

(4) promoting closer ties among school teachers, administrators, families and the local community;

(5) providing opportunities for teacher enrichment and other means to improve the professional status of teachers;

(6) encouraging projects that reallocate existing resources (both human and financial) to serve children better by refocusing priorities;

(7) allowing local schools to establish closer ties with an institution of higher education to increase educational achievement;

(8) increasing the number and quality of minority teachers;

(9) providing entry-year assistance to new teachers and administrators;

(10) improving the teacher certification process, especially for schools, school districts, or States facing serious shortages; and

(11) encouraging pride in schools by teaching students to be responsible for their school environment, involving students in the care and maintenance of their classrooms and promoting individual responsibility and involvement in civic activities.

(b) PRIORITY RULE.—The Secretary shall give priority to proposed projects that—

(1) will benefit students or schools with below average academic performance;

(2) will lead to increased access of all students to a high quality education; and

(3) develop or implement systems for providing incentives to schools, administrators, teachers, students, or others to make measurable progress toward specific goals of improved educational performance.

(c) ADMINISTRATIVE RULE.—The Secretary shall carry out the provisions of this part through the Board established under section 3231.

SEC. 3212. APPLICATIONS. 20 USC 4812.

(a) CONTENTS OF APPLICATIONS.—(1)(A) For grants described under this subpart, each applicant shall, if relevant, describe how the program relates to the priorities listed in section 3211(b). Where appropriate, proposals shall contain a description of the incentive system described in section 3211(b)(3), including specific goals and timetables for progress toward such goals.

(B) For the purpose of this section, incentives may include financial rewards, regulatory waivers, open enrollment among schools, grants to schools for innovative projects, or other rewards for meeting specific goals.

(C) For the purpose of this section, the goals described in subparagraph (A) may include increased graduation rates, reduced dropout rates, increased attendance rates, increased student achievement, reduced rates of incidents of juvenile delinquency or vandalism, or other goals of educational improvement.

(2)(A) Each teacher and administrator desiring to receive a grant at the school level shall submit an application for school level projects involving an individual school or a consortium of schools. Each application shall contain assurances that the project will be carried out under the responsibility of a full-time teacher or school administrator.

(B) Each such application shall be reviewed by the appropriate local educational agency. The local educational agency shall act as the fiscal agent in administering the school's grant to the school, but funds must be expended at the school level.

(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application for a grant under this subpart (other than an application from a State educational agency) shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency must complete its review of the application and comment to the Secretary within 30 calendar days of receipt.

(c) SPECIAL EVALUATION RULE.—In evaluating an application for a grant or contract under this subpart, the Secretary shall consider the extent to which the proposed project is likely to improve teaching and learning at the school level.

Subpart 2—Family-School Partnership

SEC. 3221. FINDINGS AND PURPOSE. 20 USC 4821.

(a) FINDINGS.—The Congress finds that—

(1) it has been clearly demonstrated that parent involvement is directly related to better student achievement, attitudes, and performance in school;

(2) demographics of the American family are changing to the degree that significant numbers of children attending school come from families with single parents, families in which both parents are employed outside the home, or where the primary caregiver is not the biological parent;

(3) the demographics mean that current approaches to developing and maintaining partnerships with educators in compensatory education programs require review and modification to

make them more responsive to the needs of both families and schools; and

(4) effective approaches to more fully involving families as partners in their children's education should be encouraged as a matter of Federal policy.

(b) PURPOSE.—The purpose of this subpart is to encourage eligible local educational agencies to increase the involvement of families in the improvement of the educational achievement of their children in the preschool, elementary, and secondary schools within such agency.

20 USC 4822.

SEC. 3222. ELIGIBLE AGENCY.

In order to be eligible to receive a grant under this subpart, a local educational agency must be eligible to receive a grant under section 1005 of the Elementary and Secondary Education Act of 1965.

Grants.
20 USC 4823.

SEC. 3223. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary, through the Fund, is authorized to make demonstration grants to eligible local educational agencies for the development of innovative, promising family-school educational partnership activities designed to—

(1) support the efforts of families, including training, to the maximum extent practicable, to work with children in the home to attain both the instructional objectives of the schools within eligible local educational agencies and instill positive attitudes about the importance of education;

(2) train teachers and other staff personnel involved in the program supported under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to work effectively as educational partners with the families of participating students;

(3) train families, teachers and other staff personnel in the schools within such agency to build an educational partnership between home and school; and

(4) evaluate how well family involvement activities of the schools within such agency are working, what barriers exist to greater participation, and what steps need to be taken to expand participation in such family involvement activities.

(b) USES OF FUNDS.—The activities and procedures for which grants may be made under this subpart may include—

(1) training programs for the family on the family's educational responsibilities and reasonable and necessary expenditures associated with the attendance of parents or guardians at training sessions;

(2) planning and development of new school procedures and practices to meet the changing demographic characteristics of the families of school-age children;

(3) planning and development of modifications of school procedures and practices necessary for the involvement of parents of special groups, including minorities, disadvantaged, gifted and talented, and students with handicaps;

(4) hiring, training, and use of educational personnel in eligible local educational agencies to coordinate family involvement activities and to foster communications among families, educators, and students;

(5) development and purchase by a local educational agency of educational materials where such materials are commercially unavailable to reinforce school learning at home and assistance

in implementing other home-based education activities that reinforce and extend classroom instruction and student motivation; and

(6) securing technical assistance, including training, to design and carry out family involvement programs.

(c) PRIVATE SCHOOL STUDENTS.—An application may, consistent with the number of children enrolled in private elementary and secondary schools located in the school district of an eligible educational agency, provide for the participation of such children, their families and teachers.

Subpart 3—Administrative Provisions

SEC. 3231. BOARD AUTHORIZED. 20 USC 4831.

(a) FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING BOARD ESTABLISHED.—(1) There is established the Fund Board.

(2)(A) The Board shall—

(i) advise the Secretary concerning developments in education that merit the attention of the Secretary;

(ii) identify promising initiatives to be supported under this part; and

(iii) advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, planning documents, guidelines, and procedures for grant competitions carried out by the Fund.

(B) The Secretary shall provide such information and assistance as may be necessary to enable the Board to carry out its functions under this part.

(3)(A) The Board shall be composed of 15 members and the Secretary. Appointed members of the Board shall be appointed from among individuals who have extensive backgrounds in the field of education and shall represent a broad range of viewpoints and experience.

(B)(i) The term of office of each member of the Board shall be 3 years, except that, subject to the provisions of paragraphs (4) and (5), the members first taking office shall serve as designated by the Secretary, one-third of the members for terms of 1 year, one-third of the members for terms of 2 years, and one-third of the members for terms of 3 years;

(ii) Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed. No Board member may serve more than 2 consecutive terms.

(4) The initial membership of the Board shall be appointed by the Secretary after consultation with appropriate educational organizations and other interest groups.

(5) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. The Board shall nominate at least 3 individuals for each vacancy.

(6) The Board shall elect a chairman and vice-chairman from among its membership.

(7) The Board shall meet at least 3 times each year. A meeting shall also be held whenever one-third of the Board members request

in writing that a meeting be held. A majority of the Board shall constitute a quorum.

(b) DIRECTOR OF THE FUND.—(1) The Secretary shall appoint a Director of the Fund to serve a 4-year term. No individual may serve as Director for more than 8 years.

(2) The Director shall advise the Board about developments in education that merit the attention of the Board, identify promising initiatives, coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education, and provide such information and assistance as may be necessary to enable the Board to carry out its functions. The Director may offer comments to the Board on any application to the Fund.

(3) The Director shall—

(A) consult with the Board on priorities for the improvement of education,

(B) design grant competitions,

(C) solicit proposals,

(D) administer grant competitions,

(E) review and prioritize proposals,

(F) monitor funded projects, and

(G) disseminate the results of successful projects.

(c) PRIORITIES RULE.—In January of every calendar year, the Board shall advise the Secretary and the Congress of the priorities of the Board for the improvement of education and the implications of the priorities for the Fund. The Secretary shall give careful consideration to the priorities set forth by the Board. By December 31 of each calendar year, the Director shall provide the Congress with a report for that year summarizing the projects funded for that year.

Reports.

(d) REVIEW AND EVALUATION PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. The procedures established under this subsection for reviewing grant applications or contracts for financial assistance under this Act may not be subject to any review outside of officials responsible for the administration of the Fund.

(e) PROPOSAL REVIEW.—In reviewing proposals, the Director shall consider the need for the proposed project and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals and priorities of the Fund. The Secretary shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Secretary shall take appropriate steps to ensure that new applicants are encouraged to participate in any grant competition sponsored by the Fund for the Improvement and Reform of Schools and Teaching.

Grants.

(f) PERSONNEL.—The Secretary may appoint for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 3232. DISSEMINATION AND REPORTING. 20 USC 4832.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that exemplary projects that are developed with assistance furnished under this part are made available to institutions of higher education and State and local educational agencies. In carrying out this paragraph the Secretary and Director shall ensure that exemplary projects apply to the National Diffusion Network for dissemination through the procedures established by that program.

(b) REPORT.—The Secretary shall submit a final report to Congress not later than June 1, 1990. The report shall describe the programs assisted by this part, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 3233. COORDINATION WITH THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION. 20 USC 4833.

In order to facilitate coordination between the Fund and the Fund for the Improvement of Postsecondary Education, the Director of the Fund shall meet regularly with the Director of the Fund for the Improvement of Postsecondary Education. The Board of the Fund shall meet at least once each year with the Board of the Fund for the Improvement of Postsecondary Education to discuss priorities and projects to be funded.

Subpart 4—General Provisions

SEC. 3241. SPECIAL GRANT RULES. 20 USC 4841.

(a) GRANT CONDITIONS.—(1) Federal funds paid under this part shall supplement, not supplant, other resources available to the grantee.

(2) Financial assistance made under this part is not intended to be used for the acquisition of capital equipment as a primary purpose.

(b) DISTRIBUTION OF FUNDS.—(1) At least 25 percent of the funds appropriated for the Fund in any fiscal year shall be used for grants to applicants described in section 3212(a)(2)(A).

(2) Grants to a single school as described in section 3212(a)(2)(A) may not be less than $5,000 nor more than $125,000 in any fiscal year.

(3) No grant may be made for more than a 3-year period.

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS. 20 USC 4842.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the provisions of this part $30,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, 1992, and 1993.

(b) RESERVATIONS.—

(1) The Secretary shall reserve one-third of the funds appropriated for activities under subpart 2 of this part.

(2) The Secretary shall reserve $150,000 from funds appropriated for activities authorized by section 3232.

20 USC 4843.

SEC. 3243. DEFINITIONS.

For the purpose of this part—

(1) the term "at risk" means students who, because of learning deficiencies, lack of school readiness, limited English proficiency, poverty, educational or economic disadvantage, or physical or emotional handicapping conditions face greater risk of low educational achievement and have greater potential of becoming school dropouts;

(2) the term "Board" means the Fund Board established under section 3231;

(3) the term "Fund" means the Fund for the Improvement and Reform of Schools and Teaching established under section 3202; and

(4) the term "Secretary" means the Secretary of Education.

National Assessment of Education Progress Improvement Act.
20 USC 1221 note.

PART C—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 3401. SHORT TITLE.

This part may be cited as the "National Assessment of Educational Progress Improvement Act".

20 USC 1221e–1 note.

SEC. 3402. STATEMENT OF PURPOSE.

The purpose of this part is to improve the effectiveness of our Nation's schools by making objective information about student performance in selected learning areas available to policymakers at the national, regional, State, and local levels. To enhance its utility, such information shall be both representative and comparable and shall be maintained in a manner that ensures the privacy of individual students and their families. It is not the purpose of this Act to authorize the collection or reporting of information on student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

SEC. 3403. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

20 USC 1221e-1.

(a) General Authority.—Section 406 of the General Education Provisions Act (hereafter in this part referred to as "the Act" and as amended by section 3001 of this title) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following:

Grants.
Contracts.

"(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history/geography and other areas selected by the Board.

"(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall—

Reports.

"(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

"(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(iii) report achievement data on a basis that ensures valid reliable trend reporting;

"(iv) include information on special groups.

"(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

"(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D), shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

"(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data.

Contracts.

"(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted.

Reports.

"(D)(i) The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

"(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

Public information.

"(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

Classified information.

"(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

"(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

"(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

Establishment.

"(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the 'Board').

"(ii) The Board shall formulate the policy guidelines for the National Assessment.

"(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

"(i) two Governors, or former Governors, who shall not be members of the same political party;

"(ii) two State legislators, who shall not be members of the same political party;

"(iii) two chief State school officers;

"(iv) one superintendent of a local educational agency;

"(v) one member of a State board of education;

"(vi) one member of a local board of education;

"(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(viii) one representative of business or industry;

"(ix) two curriculum specialists;

"(x) two testing and measurement experts;

"(xi) one nonpublic school administrator or policymaker;

"(xii) two school principals, one elementary and one secondary;

"(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

"(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

"(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

"(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

"(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

"(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

"(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

"(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

"(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(iii) developing assessment objectives;

"(iv) developing test specifications;

"(v) designing the methodology of the assessment;

"(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

"(vii) developing standards and procedures for interstate, regional and national comparisons; and

"(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

"(B) The Board may delegate any functions described in subparagraph (A) to its staff.

"(C) The Board shall have final authority on the appropriateness of cognitive items.

"(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

Reports.

"(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

"(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

"(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized by the Board) and to carry out the functions described in paragraph (6)(A).

"(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

Contracts.

"(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment;

"(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

"(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

Reports.

"(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

Public information.

"(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.".

20 USC 1221e.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 405 of the Act is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) RESERVATION OF FUNDS FOR ASSESSMENTS.—(1) Section 405(f)(1)(D) of the Act (as redesignated by subsection (b)(1)) is amended to read as follows:

> "(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);".

(2) Section 405(f)(1)(E) of the Act (as redesignated by subsection (a)(1)) is amended by inserting a comma and "except for subsection (i) of that section," immediately after "Act".

PART D—GENERAL EDUCATION PROVISIONS ACT

SEC. 3501. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

Establishment.
20 USC 1234.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

> "(1) recovery of funds hearings pursuant to section 452 of this Act,
>
> "(2) withholding hearings pursuant to section 455 of this Act,
>
> "(3) cease and desist hearings pursuant to section 456 of this Act, and
>
> "(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

Regulations.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 453. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

20 USC 1234a.

"SEC. 452. RECOVERY OF FUNDS.

Grants.
Contracts.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453. Reports.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case. Records.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

"(d) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

"(f)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g).

"(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

"(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

"(g) A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

"(2) remands the decision to the Office.

Federal Register, publication.

"(h) The Secretary shall publish decisions that have become final agency action under subsection (g) in the Federal Register or in another appropriate publication within 60 days.

"(i) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

"(j)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

Federal Register, publication.

"(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(k) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

Claims.

"(l) No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

"SEC. 453. MEASURE OF RECOVERY. 20 USC 1234b.

"(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

"(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

"(b)(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

"(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient.

"(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department. Mail.

"(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

"(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

"(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

"(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

"(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

"(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

"(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

20 USC 1234c.

"SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

"(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

"(1) withhold further payments under that program, as authorized by section 455;

"(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

"(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457; or

"(4) take any other action authorized by law with respect to the recipient.

"(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

20 USC 1234d.

"SEC. 455. WITHHOLDING.

"(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

"(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

"(1) the intent to withhold payments;

"(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

"(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

"(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

"(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the

Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

"(2) remands the decision of the Office.

"SEC. 456. CEASE AND DESIST ORDERS.

20 USC 1234e.

"(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

"(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

"(1) make a report in writing stating its findings of fact; and

Reports.

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

"SEC. 457. COMPLIANCE AGREEMENTS.

20 USC 1234f.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

Federal Register, publication.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

Courts, U.S.
20 USC 1234g.

"SEC. 458. JUDICIAL REVIEW.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program described in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

Records.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

20 USC 1234h.

"SEC. 459. USE OF RECOVERED FUNDS.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 452(e) is taken.

Federal Register, publication.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

20 USC 1234i.

"SEC. 460. DEFINITIONS.

"For purposes of this part:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

20 USC 1234 note.

(b) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

20 USC 1232d.

(c) Conforming Amendments.—Section 435(a) of the General Education Provisions Act is amended by striking "titles I and IV" and all that follows through "such Act)" and inserting "chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)".

TITLE IV—EDUCATION FOR NATIVE HAWAIIANS

20 USC 4901.

SEC. 4001. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are over-represented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students;

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural isolated areas with a high Native Hawaiian population density; and

(9) special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required

20 USC 4902.

SEC. 4002. PURPOSE.

It is the purpose of this title to—

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 4003. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT.

20 USC 4903.

Grants.

(a) Curriculum Development Authority.—In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to—

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) Special Rule.—By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) Administrative Costs.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) Authorization of Appropriations.—There are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993, to carry out the provisions of this Act. Such funds shall remain available until expended.

SEC. 4004. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

20 USC 4904.

Grants.

(a) Family-Based Education Centers General Authority.—The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands. Such centers shall include—

(1) Parent-Infant programs (prenatal through age 3);

(2) Preschool programs for four and five year-olds;

(3) continued research and development; and

(4) a long term followup and assessment program.

Research and development.

(b) Administrative Costs.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of Appropriations.—In addition to any other amount authorized for the centers described in subsection (a), there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for such centers for fiscal years 1989 through 1993. Such funds shall remain available until expended.

20 USC 4905.

SEC. 4005. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAM.

Grants.

(a) HIGHER EDUCATION GENERAL AUTHORITY.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section;

Research and development.

(4) appropriate research and evaluation of the activities authorized by this section; and

(5) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) GRANTS AUTHORIZED.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

Contracts.

(c) SPECIAL CONDITION REQUIRED.—For the purpose of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a).

(2) There are authorized to be appropriated $750,000 for fiscal year 1988, and for each succeeding fiscal year through 1993, for the purpose of funding the fellowship assistance demonstration project provided under subsection (b).

(3) Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 4906.

SEC. 4006. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

(a) Gifted and Talented Demonstration Authority.—

Grants. Contracts.

(1) The Secretary shall provide a grant to, or enter into a contract with, the University of Hawaii at Hilo for—

(A) the establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, and

(B) for demonstration projects designed to—

(i) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students, and

(ii) provide those support services to their families that are needed to enable such students to benefit from the project.

Such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 3 years.

(2) After the term of the grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary shall, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, the public, 4-year, fully accredited institution of higher education located in the State of Hawaii which has made the greatest contribution to Native Hawaiian students. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate, including with the Children's Television Workshop.

Children's Television Workshop.

(b) Uses of Funds.—Demonstration projects funded under this section may include—

(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

(A) the emotional and psychosocial needs of these students, and

(B) the provision of those support services to their families that are needed to enable these students to benefit from the projects;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii and to other Native American peoples, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such children, and

(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

(c) INFORMATION PROVISION.—The Secretary shall facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Such sums shall remain available until expended.

20 USC 4907.

SEC. 4007. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

Grants.
Contracts.

(a) SPECIAL EDUCATION AUTHORITY.—The Secretary shall make grants to, and enter into contracts with, the State of Hawaii, or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects assisted under this section may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special education services;

(2) the conduct of educational activities consistent with part B of the Education of the Handicapped Act which hold reasonable promise of improving the provision of special education and related services to Native Hawaiian children who are identified as being handicapped; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Such sums shall remain available until expended.

20 USC 4908.

SEC. 4008. ADMINISTRATIVE PROVISIONS.

(a) APPLICATION REQUIRED.—No grant may be made under this title, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

20 USC 4909.

SEC. 4009. DEFINITIONS.

For purposes of this title—

(1) The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development.

(4) The term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians.

(5) The term "elementary school" has the same meaning given that term under section 1471(7) of this Act.

(6) The term "local educational agency" has the same meaning given that term under section 1471(10) of this Act.

(7) The term "secondary school" has the same meaning given that term under section 1471(7) of this Act.

TITLE V—INDIAN EDUCATION

PART A—BUREAU AND CONTRACT SCHOOLS

Indian Education Amendments of 1988.
25 USC 2001 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Indian Education Amendments of 1988".

SEC. 5102. PROHIBITION ON TRANSFERS OF BUREAU AND CONTRACT SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by adding at the end of subsection (g) the following new paragraph:

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987, or

"(B) any program of such a school that is operated on or after April 1, 1987,

only if the tribal governing body approves such action.",

(2) by striking "Such standards and procedures shall require that whenever" in subsection (g)(3) and inserting in lieu thereof "Whenever",

(3) by inserting "transfer to any other authority," after "close," and after "closure," each place either term appears in paragraphs (3) and (4) of subsection (g), and

(4) by adding at the end thereof the following new subsection:

"(j) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.".

SEC. 5103. REPORT ON TEMPORARY ACTIONS TAKEN FOR A YEAR.

Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) is amended—

(1) by redesignating subsection (d) as subsection (e),

(2) by inserting after subsection (c) the following new subsection:

Public health and safety.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

Regulations.

Federal Register, publication.

"(B) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall conduct a review of the guidelines used by the Bureau in determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety. By no later than June 30, 1989, the Secretary shall publish in the Federal Register the final form of regulations which shall be used by health and safety officers of the Bureau in making such determinations.

"(C)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form the regulations required under subparagraph (B) before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

Reports.

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.".

SEC. 5104. ELIGIBILITY AND EXPANSION OF BUREAU FUNDED SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by striking out "Indian controlled contract schools (hereinafter referred to as 'contract schools')" in subsection (a) and inserting in lieu thereof "contract schools", and

(2) by adding at the end thereof the following new subsection:

"(k)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that has not previously received funds from the Bureau,

"(ii) applications from any tribe or Bureau school board for—

"(I) a school which has not previously been operated or funded by the Bureau, or

"(II) the expansion of any program currently funded by the Bureau which would increase the amount of funds received by the Indian tribe or school board under section 1128.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau operated program, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

Effective date.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6)(A) Any application for expansion of the grade levels offered by a tribally controlled school which has been submitted to the Secretary prior to the date of enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date on which such application was submitted, unless the applicant elects to have the provisions of this subsection apply to the review of such application.

"(B) Notwithstanding any other provision of law, if the school board of the Bureau funded schools at the Pueblo of Zia and the Tama Settlement vote within the 2-year period beginning on the date of enactment of the Indian Education Amendments of 1988 to expand each of the schools to include kindergarten through grade 8, the schools shall be so expanded at the beginning of the next school year occurring after the vote.".

SEC. 5105. DORMITORY CRITERIA.

Section 1122 of the Education Amendments of 1978 (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(b) may be waived under section 1121(d).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By no later than May 1, 1989, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.". Reports.

SEC. 5106. REGULATIONS.

Section 1123 of the Education Amendments of 1978 (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

Federal Register, publication.

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

Federal Register, publication.

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.".

SEC. 5107. FORMULA MODIFICATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)) is amended to read as follows:

"(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an average daily attendance of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.".

(2) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 5324 of the Indian Education Amendments of 1988), and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 5324(c)(6)(B) of the Indian Education Act of 1988, or "(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(5) For each of the fiscal years 1989 and 1990, the Secretary shall adjust the formula established under subsection (a) to provide funding to schools operated by Indian tribes that are treated under State law as political subdivisions of the State in an amount sufficient to enable the schools to meet standards imposed by the State.".

(b) STUDY.— 20 USC 1411 note.

(1) The Comptroller General of the United States (hereafter in this subsection referred to as the "Comptroller General") shall conduct a study to determine—

(A) the number of children who—

(i) are 3 or 4 years of age,

(ii) are eligible for services provided by the Bureau of Indian Affairs of the Department of the Interior, and

(iii) are handicapped children (within the meaning of section 602(1) of the Education of the Handicapped Act (20 U.S.C. 401(1))),

(B) the geographic disbursement of such children,

(C) the number of such children who the Comptroller General estimates will receive services under the pre-school set-aside program under Public Law 99-457,

(D) the sufficiency of the pre-school services described in subparagraph (C),

(E) the unmet needs of such children,

(F) the number of such children who the Comptroller General estimates will attend education programs (schools or residential programs) funded by the Bureau, and

(G) the information described in subparagraphs (B), (C), (D), and (E) with respect to the children described in subparagraph (F).

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under paragraph (1). Reports.

SEC. 5108. ADMINISTRATIVE COST.

(a) IN GENERAL.—The Education Amendments of 1978 (25 U.S.C. 2008) is amended by inserting after section 1128 (25 U.S.C. 2008) the following new section:

"ADMINISTRATIVE COST GRANTS

"SEC. 1128A. (a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to— 25 USC 2008a.

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to each of the direct cost education programs operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the one hundredth of a decimal point.

"(d)(1)(A) Funds received by a contract school as grants under this section for tribal elementary or secondary educational programs may be combined by the contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and "(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

Reports.

"(4) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(5) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(6) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

Appropriation authorization.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) one-third of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-third of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) one-half of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-half of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).".

(b) SCHOOL BOARD TRAINING.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (20 U.S.C. 2008(c)(3)) is amended to read as follows: 25 USC 2008.

"(3)(A) The Secretary shall reserve for national school board training 0.133 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1986. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations. Contracts.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $4,000, or

"(ii) 2 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.".

(c) PERCENTAGE OF FUNDS NOT SUBJECT TO FISCAL YEAR LIMITATION.—Section 1128 of the Education Amendments of 1978 (20 U.S.C. 2008) is amended by adding at the end thereof the following new subsection: 25 USC 2008.

"(h) At the election of the local school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation.".

SEC. 5109. LOCAL PROCUREMENT.

Paragraph (4) of section 1129(a) of the Education Amendments of 1978 (25 U.S.C. 2009) is amended to read as follows:

"(4) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $25,000 of the amount allotted the school under section 1128 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.".

SEC. 5110. COORDINATED PROGRAMS.

Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end thereof the following new subsection:

Contracts.

"(f)(1) From funds allotted to a school under section 1128, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(j)) whose children are served by a program operated by the Bureau, implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves education programs operated by the Bureau. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.".

SEC. 5111. CONSULTATION.

Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010) is amended—

(1) by striking out "Bureau" the first time it appears and inserting in lieu thereof "the Secretary and the Bureau",

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall", and

(3) by adding at the end thereof the following new subsection:

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented during the discussions, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.".

SEC. 5112. INDIAN EMPLOYMENT PREFERENCE.

(a) APPLICANTS.—Subsection (f)(1) of section 1131 of the Education Amendments of 1978 (25 U.S.C. 2011) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee"

(b) PROVIDERS OF SUPPORT SERVICES.—

(1) Subparagraph (A) of section 1131(n)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(n)(1)(A)) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by adding at the end thereof the following new clause:

"(iv) support services at, or associated with, the site of the school; or".

(2) The amendments made by paragraph (1) shall apply with respect to an individual who is employed by the Bureau of Indian Affairs of the Department of the Interior on the date of enactment of this Act only if such individual elects, in such form and at such time as the Secretary of the Interior may prescribe, the application of such amendments with respect to such individual. 25 USC 2011 note.

SEC. 5113. PERSONNEL COMPENSATION, RECRUITMENT, AND RETENTION STUDIES.

25 USC 2011 note.

(a) IN GENERAL.—The Secretary shall conduct such studies and gather such information as may be necessary to prepare a report that the Secretary shall submit to the Congress by no later than the date that is 6 months after the date of enactment of this Act. The report shall compare personnel compensation in Bureau funded schools with— Reports.

(1) nearest public schools that—

(A) have successful educational programs, and

(B) are comparable in size, geographic location, grade levels, and student population characteristics to Bureau funded schools, and

(2) schools operated within the United States by the Department of Defense.

(b) INCLUSIONS.—The report required under subsection (a) shall include—

(1) detailed information on the current salaries and personnel benefits for comparable positions in the Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(2) a comparison of starting salaries, tenure, length of service, educational and certification requirements, length of work year and work day, and fringe benefits between Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(3) a projection of the compensation factors described in paragraphs (1) and (2) for Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a) over the next five years, and

(4) such additional information and analysis as the Secretary deems appropriate.

(c) FUNDING AND STAFF.—

(1) The cost of the studies and the report required under subsection (a) (including, but not limited to, costs for all con-

tracts, travel, and staff assigned to the study) shall be paid from amounts appropriated to the Bureau's Management and Administration subactivity of the General Administration activity, except that the salaries and personnel benefits of employees detailed to the study from the Office of Indian Education of the Bureau may continue to be charged to the amounts appropriated to the Bureau's Education account.

(2) If the Secretary does not conduct the studies required under subsection (a) by contract, the staff detailed to work on the studies and report required under subsection (a) shall include not less than two career employees from the Office of Indian Education of the Bureau who have substantial experience in the administration (at the level of an agency office) of school operations and in the drafting of personnel regulations, including but not limited to those under this Act.

(d) CONTRACTS.—The Secretary may conduct part or all of the studies required under subsection (a) through contracts entered into with one or more Indian education organizations.

(e) ADDITIONAL STUDIES.—The Secretary shall conduct such other studies of personnel compensation and recruitment in Bureau funded and public schools as are desirable in carrying out the purposes of title 11 of the Education Amendments of 1978.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

SEC. 5114. REGULAR COMPENSATION OF BUREAU EDUCATORS; NONVOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Paragraph (1) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) by inserting "or on the basis of the Federal Wage System schedule in effect for the locality" after "is applicable",

(2) by striking out "The Secretary shall" and inserting in lieu thereof "(A) Except as otherwise provided in this section, the Secretary shall", and

(3) by adding at the end thereof the following new subparagraphs:

"(B) By no later than the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988, the Secretary shall establish, for contracts for the 1991-1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than the close of the 6-month period described in subparagraph (B), the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989-1990 academic year, at rates which reflect one-third of the changes in the rates applicable to such positions on the date of enactment of the Indian Education Amendments of 1988 that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991-1992 academic year, and

"(ii) for contracts for the 1990-1991 academic year, at rates which reflect two-thirds of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day.

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies— President of U.S.

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.".

(b) FURLOUGHS.—Section 1131 of the Education Amendments of 1978 (20 U.S.C. 2011) is amended by adding at the end thereof the following new subsection:

"(p)(1) No educator whose basic compensation is paid from funds allocated under section 1128 may be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to a shortage of funds, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determination of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.".

SEC. 5115. POST DIFFERENTIALS.

Paragraph (3) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(3)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(A) The Secretary", and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time it is approved, approved with modification, or disapproved by the Secretary.

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

Reports.

"(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.".

SEC. 5116. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

Title XI of the Education Amendments of 1978 is amended—

(1) by striking out part C, and

(2) by adding at the end of part B the following new section:

20 USC 241aa note, 241bb-1.

"EARLY CHILDHOOD DEVELOPMENT PROGRAM

Grants. 25 USC 2022a.

"SEC. 1141. (a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—
"(i) such tribe,
"(ii) the tribe that authorized such tribal organization, or
"(iii) any tribe that—
"(I) is a member of such consortium, or
"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—
"(i) is eligible to receive funds under subsection (a),
"(ii) is a member of a consortium that is eligible to receive such funds, or
"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—
"(i) by only one tribe that has less than 500 members, or
"(ii) by one or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

Appropriation authorization.

"(f) There are authorized to be appropriated for fiscal year 1989, and for each succeeding fiscal year, $15,000,000 for the purpose of carrying out the provisions of this section.".

SEC. 5117. DEFINITIONS.

Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;",

(2) by redesignating paragraphs (4) through (10) as paragraphs (6) through (12), respectively, and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d);".

SEC. 5118. SEQUESTRATION ORDERS.

Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended by adding at the end thereof the following new paragraph:

"(5) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1128 for any fiscal year by more than 7 percent of the amount of funds available for allotment under section 1128 during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and "(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1128, and

"(B) the Secretary may waive the application of the provisions of section 1121(g) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1128 for such fiscal year.".

SEC. 5119. TRIBAL DEPARTMENTS OF EDUCATION.

Grants.

Part B of title XI of the Education Amendments of 1978 is amended by adding at the end thereof the following new section:

"TRIBAL DEPARTMENTS OF EDUCATION

25 USC 2022b.

"SEC. 1142. (a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 104(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

Appropriation authorization.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.".

SEC. 5120. SCHOOL BOUNDARIES.

Subsection (b) of section 1124 of the Education Amendments of 1978 (25 U.S.C. 2004(b)) is amended—

(1) by striking out "On or after" and inserting in lieu thereof "(1) Except as provided in paragraph (2), on or after", and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.".

PART B—TRIBALLY CONTROLLED SCHOOL GRANTS

Tribally Controlled Schools Act of 1988.

SEC. 5201. SHORT TITLE.

25 USC 2501 note.

This part may be cited as the "Tribally Controlled Schools Act of 1988".

SEC. 5202. FINDINGS.

25 USC 2501.

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

(3) Indians will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons;

(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement nor created the diverse opportunities and personal satisfaction which education can and should provide;

(6) true local control requires the least possible Federal interference; and

(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

SEC. 5203. DECLARATION OF POLICY.

25 USC 2502.

(a) RECOGNITION.—The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) COMMITMENT.—The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

(c) NATIONAL GOAL.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

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(d) Educational Needs.—The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

(e) Federal Relations.—The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) Termination.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

25 USC 2503.

SEC. 5204. GRANTS AUTHORIZED.

(a) In General.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) operate tribally controlled schools which are eligible for assistance under this part, and

(B) submit to the Secretary applications for such grants.

(2) Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is provided.

(3)(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education-related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including but not limited to, expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and

(ii) support services for the school, including transportation.

(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operation and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

(b) Limitations.—

(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

(B) $400,000 of such funds,

at any other schoolsite.

(2) For purposes of this subsection, the term "schoolsite" means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract with, the Bureau for which a discreet student count is identified under the funding formula established under section 1128 of the Education Amendments of 1978.

(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

(1) to require a tribe or tribal organization to apply for or accept, or

(2) to allow any person to coerce any tribe or tribal organization into applying for, or accepting,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications, and the timing of such applications, shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

Voluntarism.

(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

(g) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 5205. COMPOSITION OF GRANTS.

25 USC 2504.

(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that are operated by such Indian tribe or tribal organization, including, but not limited to, funds

provided under such sections, or under any other provision of law, for transportation costs,

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and other facilities accounts for such schools for such fiscal year under section 1126(d) of the Education Amendments of 1978 or under any other law, and

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are allocated to such schools for such fiscal year.

(b) SPECIAL RULES.—

(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are distributed through the Bureau, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the Education of the Handicapped Act, or

(iii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

25 USC 2505.

SEC. 5206. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—

(1) A tribally controlled school is eligible for assistance under this part if the school—

(A) was, on the date of enactment of this Act, a school which received funds under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.),

(B) was a school operated (as either an elementary or secondary school or a combined program) by the Bureau and has met the requirements of subsection (b),

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c), or

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

(2) Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of this Act shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

(b) ADDITIONAL REQUIREMENTS FOR BUREAU SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

(1) Any school that was operated as a Bureau school on the date of enactment of this Act, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) make a determination of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) if the school is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization, and

(ii) whether the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) shall determine that the school is eligible for assistance under this part,

unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment,

(ii) bookkeeping and accounting procedures,

(iii) substantive knowledge of operating the school,

(iv) adequately trained personnel, or

(v) any other necessary components in the operation of the school.

(c) ADDITIONAL REQUIREMENTS FOR SCHOOLS THAT HAVE NOT RECEIVED BUREAU FUNDS.—

(1) A school for which the Bureau has not provided funds meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) with respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(ii) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation to education; and

(IV) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or an earlier date, at the Secretary's discretion.

(d) APPLICATIONS AND REPORTS.—

(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education of the Department of Education. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment is submitted to the Secretary.

(2) Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning with the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(f) DENIAL OF APPLICATIONS.—

(1) Whenever the Secretary declines to provide a grant under this part, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time,

(B) provide assistance to the tribe or tribal organization to overcome all stated objections,

(C) provide the tribe or tribal organization a hearing, under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(D) provide an opportunity to appeal the objection raised.

(2) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to the Congress the budget under section 1105 of title 31, United States Code.

SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION.

25 USC 2506.

(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) ANNUAL REPORTS.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school an annual report that shall be limited to—

(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

(c) Revocation of Eligibility.—

(1)(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school, and

(ii) at least one of the following subclauses applies with respect to the school:

(I) The school is certified or accredited by a State or regional accrediting association as determined by the Secretary of Education, or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(IV) The school accepts the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(V) A positive evaluation of the school is conducted once every 3 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act prior to the date of enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. Upon failure to agree on such an evaluator, the governing body of the tribe shall choose the evaluator or perform the evaluation.

(B) The choice of standards employed for purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination, and

(ii) the actions that are needed to remedy such deficiencies, and

(B) affords such authority an opportunity to effect any remedial actions.

The Secretary shall provide such technical assistance as is necessary to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS.

25 USC 2507.

(a) PAYMENTS.—

(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments:

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) For any school for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(b) INVESTMENT OF FUNDS.—

(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

25 USC 2508.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c, et seq.) except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of enactment of this Act may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

(2) Any election made under paragraph (1) shall take effect on the later of—

(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made, or

(B) the date that is 60 days after the date of such election.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

25 USC 2509.

SEC. 5210. ROLE OF THE DIRECTOR.

Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

25 USC 2510.

SEC. 5211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

25 USC 2511.

SEC. 5212. DEFINITIONS.

For purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3)(A) The term "tribal organization" means—

(i) the recognized governing body of any Indian tribe, or

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization, and

(II) includes the maximum participation of Indians in all phases of its activities.

(B) In any case in which a grant is provided under this part to an organization to perform services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

PART C—DEPARTMENT OF EDUCATION

Indian Education Act of 1988.
25 USC 2601 note.

SEC. 5301. SHORT TITLE.

This part may be cited as the "Indian Education Act of 1988".

Subpart 1—Financial Assistance to Local Educational Agencies for the Education of Indian Children

SEC. 5311. DECLARATION OF POLICY.

25 USC 2601.

In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both.

25 USC 2602.

SEC. 5312. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) In General.—The Secretary shall, in order to effectuate the policy set forth in section 5311, carry out a program of making grants to local educational agencies which are entitled to payments under this subpart and which have submitted, and have had approved, applications therefor, in accordance with the provisions of this subpart.

(b) Amount of Grants.—

(1)(A) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of eligible Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(B) For purposes of this subpart, the term "eligible Indian children" means Indian children whom the Secretary has determined—

(i) were enrolled in a school of the local educational agency, and

(ii) were provided free public education by the local educational agency.

(2)(A) From the sums appropriated under section 5316(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this subpart an amount which bears the same ratio to such sums as the product of—

(i) the number of eligible Indian children, multiplied by

(ii) the average per pupil expenditure per local educational agency,

bears to the sum of such products for all such local educational agencies.

(B) A local educational agency shall not be entitled to receive a grant under this subpart for any fiscal year unless the number of eligible Indian children, with respect to such agency, is at least 10 or constitutes at least 50 percent of its total enrollment. The requirements of this subparagraph shall not apply to any local educational agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency is equal to the amount determined by dividing—

(i) the sum of—

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus

(II) any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), by

(ii) the aggregate number of children who were in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(3)(A) The first fiscal year for which schools operated by the Bureau of Indian Affairs of the Department of the Interior shall be treated as local educational agencies for the purposes of this subpart (other than sections 5314(b)(2)(B)(ii) and 5315(c)(2)) is the first fiscal year beginning after the date of enactment of this Act for which the amount of funds appropriated for allocation under this subsection equals or exceeds the amount of funds that, if such schools are not treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to subparagraph (B)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(i) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)), plus

(ii) 2 percent of the amount described in clause (i).

(B)(i) Notwithstanding any other provision of this subpart, for each fiscal year to which this clause applies—

(I) paragraph (2) shall first be applied to allocate the portion of the funds appropriated for such fiscal year for allocation under this subsection that does not exceed the amount determined to be necessary under subparagraph (A) among only those local educational agencies that received funds under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C 241bb(a)(2)) for fiscal year 1988, and

(II) paragraph (2) shall then be applied to allocate the remaining portion (if any) of the funds appropriated for such fiscal year for allocation under this subsection among only those local educational agencies that are schools operated by the Bureau of Indian Affairs.

(ii) Clause (i) applies to the first fiscal year described in subparagraph (A), and each succeeding fiscal year, until the amount of funds appropriated for allocation under this subsection for any fiscal year beginning after the date of enactment of this Act equals or exceeds the amount of funds that, if all schools operated by the Bureau of Indian Affairs are treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to clause (i)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(I) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under the Indian Elementary and Secondary School Assistance Act, plus

(II) 2 percent of the amount described in subclause (I).

(c) GRANTS TO SCHOOLS THAT ARE NOT, OR HAVE NOT BEEN, LOCAL EDUCATIONAL AGENCIES.—

(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is

hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this subpart to schools—

(A) which are located on or near reservations; and

(B) which—

(i) are not local educational agencies, or

(ii) have not been local educational agencies for more than 3 years.

California. Oklahoma. Alaska. (2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma, or Alaska.

(d) GRANTS FOR DEMONSTRATION PROJECTS.—In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve educational opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 percent of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

25 USC 2603.

SEC. 5313. USES OF FEDERAL FUNDS.

Grants under this subpart may be used, in accordance with applications approved under section 5314, for—

(1) planning and development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of such programs, including, in accordance with regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment; and

(3) the training of counselors at schools eligible to receive funds under this subpart in counseling techniques relevant to the treatment of alcohol and substance abuse.

25 USC 2604.

SEC. 5314. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

(a) IN GENERAL.—A grant provided under this subpart, except as provided in section 5312(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subpart is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 5313, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that—

(A) the planning was or will be directly related to programs or projects to be carried out under this subpart and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subpart, and

(B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subpart;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subpart; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subpart and to determine the extent to which funds provided under this subpart have been effective in improving the educational opportunities of Indian students in the area served, and for the keeping of such records, and the affording of such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports.

Reports.
Records.

(b) Approval of Applications.—An application by a local educational agency or agencies for a grant under this subpart may be approved only if it is consistent with the applicable provisions of this subpart and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee—

(I) which is composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, and

(II) of which at least half the members shall be parents described in subclause (I);

(3) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of paragraph (2)(B)(ii); and

(4) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.

(c) AMENDMENTS OF APPLICATIONS.—Amendments of applications submitted under this subpart shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

(d) ELIGIBILITY FORMS.—

(1) The Secretary shall require that each application for a grant under this subpart for each fiscal year include a form for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

(2) The Secretary shall request on the form required under paragraph (1) at least the following information:

(A) either—

(i) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

(ii) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available) and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

(B) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership is federally recognized;

(C) the name and address of the parent or legal guardian;

(D) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(E) any other information which the Secretary deems necessary to provide an accurate program profile.

(3) Nothing in the requirements of paragraph (2) may be construed as affecting the definition set forth in section 5351(4). The failure of an applicant to furnish any information listed in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

(4) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985-1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of paragraph (1) after the date of enactment of this Act.

(5) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in paragraph (2) may be construed as requiring the furnishing of enrollment numbers.

(e) AUDITING; PENALTIES FOR FALSE INFORMATION.—

(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local education agencies receiving funds under this subpart and shall submit to the Congress an annual report on the findings of the audits.

Reports.

(B) For purposes of any audit conducted by the Federal Government with respect to funds provide under this subpart, all procedures, practices, and policies that are established by—

(i) the Office of Indian Education of the Department of Education, or

(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

(C) No local education agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit conducted before the date of enactment of this Act that—

(i) relate to the date of completion, or the date of submission, of any forms used to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act, and

(ii) are the subject of any administrative or judicial proceeding pending on the date of enactment of this Act.

(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be ineligible to apply for any other grants under this subpart and shall be liable to the United States for any funds provided under this subpart that have not been expended.

(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this subpart.

25 USC 2605.

SEC. 5315. PAYMENTS.

(a) In General.—The Secretary shall, subject to the provisions of section 5316, from time-to-time pay to each local educational agency which has had an application approved under section 5314, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b) Denial of Payments if Payments Taken Into Account by State.—No payments shall be made under this subpart for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subpart in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(c) Reduction for Failure To Maintain Fiscal Effort.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subpart for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

25 USC 2606.

SEC. 5316. AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS.

(a) In General.—For the purpose of making payments under this subpart, there are authorized to be appropriated—

(1) for fiscal year 1988, $70,000,000, and

(2) for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

(b) Reallocations.—The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this subpart, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children

Grants.

SEC. 5321. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

25 USC 2621.

(a) IN GENERAL.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

(b) DEMONSTRATION PROJECTS.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

(A) to provide educational services not available to such children in sufficient quantity or quality, including—

(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(ii) comprehensive academic and vocational instruction;

(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

(iv) comprehensive guidance, counseling, and testing services;

(v) special education programs for handicapped and gifted and talented Indian children;

(vi) early childhood programs, including kindergarten;

(vii) bilingual and bicultural education programs; and

(viii) other services which meet the purposes of this subsection; and

(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

(A) encouraging Indian students to acquire a higher education, and

(B) reducing the incidence of dropouts among elementary and secondary school students.

(d) TRAINING.—

(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

(e) GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.—

(1) The Secretary is authorized to make grants to, and to enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, and Indian organizations, and to make con-

tracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this Act and under other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and adults and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 5314(b)(2)(B)(ii) in evaluating and carrying out programs assisted under this Act, through the provision of materials and personnel resources; and

Public information.

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children and adults, including information on successful models and programs designed to meet the special educational needs of Indian children.

Contracts.

(2) Grants or contracts made under this subsection may be made for a term not to exceed 3 years and may be renewed for additional 3-year terms if provision is made to ensure annual review of the projects.

Contracts.

(3) From funds appropriated under the authority of subsection (g)(1), the Secretary is authorized to make grants to, and to enter into contracts with, Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(4) The sum of the grants made under this subsection to State educational agencies for any fiscal year shall not exceed 15 percent of the total amount of funds appropriated for the provision of grants under this subsection for such fiscal year.

(f) APPLICATIONS FOR GRANTS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for a grant under subsection (c)—

(i) subject to such criteria as the Secretary shall prescribe, provide for—

(I) the use of funds available under this section, and

(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and

(ii) provide for the training of personnel participating in the project; and

(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

(2)(A) The Secretary may approve an application for a grant under subsection (b), (c), or (d) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

(i) demonstrate that—

(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

(II) there will be such participation in the operation and evaluation of the project, and

(ii) provide for the participation, on an equitable basis, of eligible Indian children—

(I) who reside in the area to be served,

(II) who are enrolled in private nonprofit elementary and secondary schools, and

(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(3) The Secretary may approve an application for a grant under subsection (e) only if the Secretary is satisfied that the funds made available under that subsection will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under that subsection, be made available by the State or local educational agency for the activities described in that subsection, and in no case will be used to supplant those funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) For the purpose of making grants under the provisions of this section, there are authorized to be appropriated $35,000,000 for each fiscal year ending prior to October 1, 1993.

(2) For the purpose of making grants under subsection (e)(1), there are authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1993.

25 USC 2622.

SEC. 5322. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

Contracts.

(a) IN GENERAL.—

(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

(B) providing in-service training for persons teaching in such programs.

(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

(b) FELLOWSHIPS AND TRAINEESHIPS.—

(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances. Contracts.

(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year ending prior to October 1, 1993, such sums as may be necessary to carry out the provisions of this section.

SEC. 5323. FELLOWSHIPS FOR INDIAN STUDENTS. 25 USC 2623.

(a) IN GENERAL.—During each fiscal year ending prior to October 1, 1993, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a post baccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) STIPENDS.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

(d) SPECIAL RULES.—

(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

25 USC 2624.

SEC. 5324. GIFTED AND TALENTED.

(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

Contracts.

(b) DEMONSTRATION PROJECTS.—

(1) The Secretary shall award separate grants to, or enter into contracts with—

(A) 2 tribally controlled community colleges that—

(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

(ii) are fully accredited, or

(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide those support services to their families that are needed to enable the students to benefit from the project.

Children's Television Network.

(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

(3) Demonstration projects funded under this section may include—

(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions;

(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (d) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of those support services to their families that are needed to enable such children to benefit from the project.

(c) ADDITIONAL GRANTS.—

(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

(A) gifted and talented students,

(B) college preparatory studies (including programs for Indian students interested in teaching careers),

(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

(D) math and science education.

(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

(4) In providing grants under paragraph (1), the Secretary shall—

(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

(B) ensure that a definition of the term "gifted and talented student" for purposes of this section and section 1128(c)(1)(A)(ii) of the Education Amendments of 1978 is developed as soon as possible.

(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

Reports.

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B).

(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the evaluator.

Contracts.

(B) If no funds are provided under subsection (b) for—

(i) the evaluation of activities funded by grants made under paragraph (1),

(ii) technical assistance and coordination with respect to such activities, or

(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

(d) INFORMATION NETWORK.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993 for the purpose of carrying out the provisions of this section. Such sums shall remain available until expended.

Grants.

Subpart 3—Special Programs Relating to Adult Education for Indians

25 USC 2631.

SEC. 5330. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

(a) IN GENERAL.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate—

(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

Public information.

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

Contracts.

(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

(d) APPLICATIONS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought; and

(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

(2) The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that—

(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

(B) there will be such a participation in the operation and evaluation of the project.

(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

Subpart 4—Program Administration

SEC. 5311. OFFICE OF INDIAN EDUCATION.

Establishment.
25 USC 2641.

(a) IN GENERAL.—There is established, in the Department of Education, an Office of Indian Education.

(b) DIRECTOR.—

(1) The Office of Indian Education shall be under the direction of the Director of the Office of Indian Education, who shall be appointed by the Secretary from a list of nominees submitted to the Secretary by the National Advisory Council on Indian Education.

(2) The Director of the Office of Indian Education shall—

(A) be responsible for administering the provisions of this part,

(B) be responsible for the development of all policies and procedures relative to the implementation of this part,

(C) be involved in, and primarily responsible for, development of all policies affecting Indians under programs within the Office of Elementary and Secondary Education of the Department of Education, and

(D) coordinate the development of policy and practices for all programs in the Department of Education relating to Indians and Alaskan Natives.

(2) The Director of the Office of Indian Education shall report directly to the Assistant Secretary of Education for Elementary and Secondary Education.

(3) The Director of the Office of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of

title 5, United States Code, and shall perform such duties as are delegated or assigned to the Director by the Secretary. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(c) INDIAN PREFERENCE.—

(1)(A) All professional staff within the Office of Indian Education shall have experience with Indian education programs. The Secretary shall give a preference to Indians in all personnel actions within the Office of Indian Education. Such preference shall be implemented in the same fashion as the preference given to any veteran referred to in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(B) The provisions of this paragraph shall apply to all personnel actions taken after the date of enactment of this Act.

(2) The Secretary shall provide a one-time preference for qualified individuals who—

(A) are not Indians,

(B) are serving within the Office of Indian Education on the date of enactment of this Act, and

(C) desire to take another position in the Department of Education which is not within the Office of Indian Education and for which there is a vacancy.

Establishment.
25 USC 2642.

SEC. 5342. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) IN GENERAL.—

(1) There is hereby established the National Advisory Council on Indian Education (hereafter in this subpart referred to as the "National Council"), which—

(A) shall consist of 15 members who are Indians appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and

(B) shall represent diverse geographic areas of the country.

Termination date.

(2) Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1993.

(b) FUNCTIONS.—The National Council shall—

(1) advise the Secretary with respect to—

(A) the administration (including the development of regulations and of administrative practices and policies) of any program—

(i) in which Indian children or adults participate, or

(ii) from which they can benefit, including this part, and

(B) adequate funding of such programs;

(2) review applications for assistance under this part and make recommendations to the Secretary with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under subpart 1; Regulations.

(6) submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs, and

(7) submit to the Congress by no later than June 30 of each year a report on its activities, which shall include— Reports.

(A) any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, and

(B) a statement of the National Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) CONTRACTING.—With respect to functions of the National Council described in paragraphs (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) FUNDING.—From sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

SEC. 5343. AUTHORIZATION OF APPROPRIATIONS.

25 USC 2643.

There are authorized to be appropriated for fiscal year 1989, and each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this subpart.

Subpart 5—Miscellaneous

SEC. 5351. DEFINITIONS.

25 USC 2651.

For purposes of this part—

(1) The term "adult" means any individual who—

(A) is 16 years old or older, or

(B) who is beyond the age of compulsory school attendance under State law.

(2) The term "adult education" means instruction or services below college level for adults who are not enrolled in a secondary school and who do not have—

(A) the basic skills to enable them to function effectively in society, or

(B) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(3) The term "free public education" means education that is provided at public expense, under public supervision and direction, and without tuition charge, and that is provided as elementary or secondary education in the applicable State.

(4) The term "Indian" means any individual who is—

(A) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band, or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A),

(C) considered by the Secretary of the Interior to be an Indian for any purpose,

(D) an Eskimo, Aleut, or other Alaska Native, or

(E) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the National Advisory Council on Indian Education.

(5)(A) The term "local educational agency" has the meaning given to such term by section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(B) The term "local educational agency", for purposes of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)(2)) includes—

(i) any Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe if the school either—

(I) provides its students an educational program that meets the standards established by the Secretary of the Interior under section 1121 of the Education Amendments of 1978, or

(II) is operated by that tribe or organization under a contract with the Department of the Interior in accordance with the Indian Self-Determination and Education Assistance Act, and

(ii) for the fiscal year described in section 5312(b)(3)(A) and each succeeding fiscal year, any school operated by the Bureau of Indian Affairs of the Department of the Interior, either individually or in cooperation with any other local education agency.

(6) The term "parent" includes an individual acting in loco parentis, other than by virtue of being a school administrator or official.

(7) The term "Secretary" means the Secretary of Education.

(8) The terms "Bureau school", "contract school", and "Bureau funded school" have the respective meaning given to such terms by section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019).

SEC. 5352. CONFORMING AMENDMENTS.

The following provisions of law are hereby repealed:

(1) The Indian Elementary and Secondary School Assistance Act.

20 USC 241aa *et seq.*

(2) Section 1005 of the Elementary and Secondary Education Act of 1965.

20 USC 3385.

(3) Section 315 of the Adult Education Act.

(4) Sections 421(b)(2), 422, 423, 441, 442, and 453 of the Indian Education Act (title IV of Public Law 92-318).

20 USC 1211, 1411 note, 3385a, 3385b, 1221f-1221h.

PART D—MISCELLANEOUS PROVISIONS

SEC. 5401. NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(b) of the Navajo Community College Act (25 U.S.C. 640c-1(b)(1)) is amended to read as follows:

Appropriation authorization. Grants.

"(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

"(A) the maintenance and operation of the college, including—

"(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

"(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

"(iii) summer and special interest programs,

"(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

"(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

"(D) supplemental student services, including student housing, food service, and the provision of access to books and services.".

SEC. 5402. PAYMENT OF GRANTS; INTEREST.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Subsection (b) of section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(b)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following new paragraphs: Securities.

"(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

"(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

(b) NAVAJO COMMUNITY COLLEGE.—The Navajo Community College Act is amended by adding at the end thereof the following new section:

"PAYMENTS; INTEREST

"SEC. 7. (a) Notwithstanding any other provision of law, the 25 USC 640c-3. Secretary of the Interior shall not, in disbursing funds provided under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act.

Securities. "(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

SEC. 5103. MATCHING FUNDS.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

25 USC 640c-2. (b) NAVAJO COMMUNITY COLLEGE.—Section 6 of the Navajo Community College Act is amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) Except", and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

25 USC 309b. (c) VOCATIONAL EDUCATION FUNDS.—Notwithstanding any other provision of law, funds provided by the Bureau for adult vocational education to any vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965) may be treated as non-Federal, private funds of such school for purposes of any provision of Federal law which requires that non-Federal or private funds of such school be used in a project or for a specific purpose.

25 USC 13d-2. SEC. 5104. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau has been making general assistance payments for at least 3 months (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satisfactory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—

(1) a college assisted by the Bureau under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801) or the Navajo Community College Act (85 Stat. 645; 25 U.S.C. 640a);

(2) an institution of higher education or a vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965);

(3) a course the Secretary determines will lead to a high school diploma or an equivalent certificate; or

(4) other programs or training approved by the Secretary.

(b) Factors Not To Be Considered.—In determining the amount of general assistance provided by the Bureau of Indian Affairs, the Secretary of the Interior shall not include consideration of—

(1) additional expenses in connection with the study or training described in subsection (a), and

(2) the amount of any financial assistance received by the individual as a student or trainee.

(c) No Effect on Other Eligibility Requirements.—This section does not alter any eligibility requirement for general assistance from the Bureau of Indian Affairs other than the requirement to be available for employment and to seek employment.

SEC. 5405. USE OF BUREAU FACILITIES.

25 USC 17.

(a) In General.—The Secretary of the Interior may permit tribal, student, and other non-Federal organizations to use facilities, lands, and equipment administered by the Bureau of Indian Affairs if such use does not interfere with the purpose for which the facilities, land, and equipment are administered by the Bureau. The Secretary of the Interior may charge the user for the actual or estimated additional cost of utilities or other expenses incurred because of the use and the amounts collected shall be credited to the appropriation or fund from which the expenses are paid.

(b) Scope of Authority.—The authority provided by this section is in addition to, and not in derogation of, any other authority available to the Secretary of the Interior.

SEC. 5406. INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) Termination of Civil Service Positions.—Paragraph (1) of section 1509(g) of the Higher Education Amendments of 1986 (20 U.S.C. 4416(g)(1)) is amended by striking out "At the end of the 2-year period beginning on the date referred to in section 1514(f)" and inserting in lieu thereof "On June 30, 1989".

(b) Endowment Program.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) by striking out "From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which" in subsection (a)(1) and and inserting in lieu thereof "From amounts appropriated under section 1531(a), not more than $500,000", and

(2) by striking out "Allocation of Funds.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for" in subsection (d) and inserting in lieu thereof "Payment of Federal Contribu-

TION.—Amounts appropriated under section 1531(a) for use under this section shall be paid by the Secretary of the Treasury to the Institute as".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1531 of the Higher Education Amendments of 1986 (20 U.S.C. 4451(a)) is amended to read as follows:

"(a) PART A.—

"(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

"(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

"(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

"(A) the beginning of the fiscal year, or

"(B) upon enactment of such appropriation.".

(d) UNOBLIGATED APPROPRIATION AND RESPONSIBILITY FOR OBLIGATIONS.—Subsection (e) of section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any funds appropriated for the Institute for fiscal year 1988 that are not expended or obligated on the date described in paragraph (2) shall be paid to the Institute within 10 days of that date.

"(4) The Institute shall be responsible for all obligations of the Institute incurred after the date described in paragraph (2) and the Secretary of the Interior shall be responsible for all obligations of the Institute incurred on or before that date.

(e) ACCOUNTING FOR NON-FEDERAL FUNDS.—Section 1507 of the Higher Education Amendments of 1986 (20 U.S.C. 4414) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(a) IN GENERAL.—In carrying out", and

(2) by adding at the end thereof the following new subsection:

"(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.".

(f) BUDGET PROPOSALS.—Subsection (b) of section 1515 of the Higher Education Amendments of 1986 (20 U.S.C. 4422(b)) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in section 1514(f)" in paragraph (1) and inserting in lieu thereof "Prior to October 1, 1988", and

(2) by striking out "the period described in paragraph (1)" in paragraph (2) and inserting in lieu thereof "September 30, 1988".

PART E—WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

25 USC 2001 note.

SEC. 5501. FINDINGS.

The Congress finds that—

(1) the Government of the United States has a special relationship with the Indians which has given rise to a responsibility to assure superior educational opportunities for all Indians;

(2) this responsibility is being carried out by Federal schools and federally funded programs;

(3) while the States provide educational services to the majority of Indian students in the United States, the State services are largely funded by Federal funds and are not, in any way, in derogation of the Federal responsibility;

(4) changes in the Federal and State systems in the past decade and the growth of tribal control over schools has led to substantial improvements in the educational opportunities and successes of Indian students;

(5) substantial and substantive problems continue to exist and interfere with the realization of full opportunities for Indian students; and

(6) identification of these problems through the convening of a White House conference will facilitate formulation of solutions.

SEC. 5502. AUTHORIZATION TO CALL CONFERENCE.

25 USC 2001 note.
President of U.S.

(a) In General.—The President shall call and conduct a White House Conference on Indian Education (hereafter in this part referred to as the "Conference") which shall be held not earlier than September 1, 1989, and not later than September 30, 1991.

(b) Purpose.—The purpose of the White House Conference on Indian Education shall be to—

(1) explore the feasibility of establishing an independent Board of Indian Education that would assume responsibility for all existing Federal programs relating to the education of Indians, and

(2) develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, in accordance with the findings set forth in section 5501.

SEC. 5503. COMPOSITION OF CONFERENCE.

25 USC 2001 note.

(a) In General.—The Conference shall be composed of—

(1) representatives of the Bureau of Indian Affairs of the Department of the Interior;

(2) representatives of Indian educational institutions, public schools, agencies, organizations and associations that deal with the education of Indians;

(3) educators from reservations and urban areas where Indians make up a substantial portion of the student population; and

(4) individuals with a special knowledge of, and special competence in dealing with, Indians and Indian problems, including education and health.

(b) Selection.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of the participants, and the President pro tempore of the Senate shall select the remaining one-third of the participants.

(c) Distribution of Participants.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that—

(1) one-fourth of the participants are individuals who are currently active educators on Indian reservations;

(2) one-fourth of the participants are educators selected from urban areas with large concentrations of Indians;

(3) one-fourth of the participants are individuals who are Federal and tribal government officials; and

(4) one-fourth of the participants are Indians, including members of Indian tribes that are not recognized by the Federal Government.

25 USC 2001 note.

SEC. 5504. ADMINISTRATIVE PROVISIONS.

(a) Planning and Direction.—The Conference shall be planned and conducted by the Interagency Task Force on the White House Conference on Indian Education (hereafter in this part referred to as the "Task Force").

(b) Establishment of Task Force.—

(1) If the President calls the Conference, the Secretary of the Interior and the Secretary of Education, acting jointly, shall establish the Task Force on the White House Conference on Indian Education which shall consist of such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education determine to be necessary to enable the Task Force to carry out its duties.

(2) The Secretary of the Interior and the Secretary of Education shall each appoint no less than 2 professional staff members and one support staff member to the Task Force.

(3) All staff assigned to the Task Force shall work on preparations for, and the conduct of, the Conference on a full-time basis.

(4) The Secretary of the Interior shall provide office space and materials for the Task Force, including an allowance for mailing costs.

(5) Each professional staff person appointed to the Task Force shall have expertise directly related to Indian education and at least one person appointed by the Secretary of the Interior shall be experienced in dealing with the Congress, Indian tribes, and nongovernmental organizations.

(6) The Secretary of the Interior and the Secretary of Education, acting jointly, shall designate one staff person as the Director of the Task Force.

(c) Function of the Task Force.—The Task Force shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) prepare and make available background materials for the use of participants in the Conference and any associated State conferences, and prepare and distribute such reports of the Conference and of any associated State conferences as may be appropriate;

(3) make technical and financial assistance (by grants, contracts, or otherwise) available to the States and intertribal organizations to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(4) conduct fiscal oversight activities with respect to the preparation for, and the convening of, the Conference, including contracting for the services of an auditor.

(d) Federal Agency Cooperation and Assistance.—

(1) Each Federal department and agency shall cooperate with, and provide assistance to, the Task Force upon request made by the Task Force under subsection (c)(1). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Task Force.

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the Director of the Indian Health Service of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part.

(e) Personnel.—In carrying out the provisions of this part, the Task Force is authorized to engage such personnel as may be necessary to assist the Conference and the Advisory Committee of the Conference, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) Expenses.—Participants in the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed such travel expenses, including per diem in lieu of subsistence, as are allowed under section 5703 of title 5, United States Code. Such expenses may be paid by way of advances, reimbursement, or in installments, as the Task Force may determine.

SEC. 5505. REPORTS.

25 USC 2001 note.

(a) In General.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations of the President with respect to such report.

Public information.

(b) Distribution.—The Conference is authorized to publish and distribute for the Conference the reports authorized under this part. Copies of all such reports shall be provided to the Federal depository libraries.

Public information.

SEC. 5506. ADVISORY COMMITTEE.

Establishment.
25 USC 2001 note.

(a) Composition.—There is hereby established the Advisory Committee of the Conference (hereafter in this part referred to as the "Advisory Committee") composed of—

(1) five individuals designated by the Speaker of the House of Representatives, with not more than three being Members of the House of Representatives;

(2) five individuals designated by the President pro tempore of the Senate, with not more than three being Members of the Senate;

(3) ten individuals appointed by the President;

(4) the Assistant Secretary of the Interior for Indian Affairs or a delegate of the Assistant Secretary;

(5) the Secretary of Education or a delegate of the Secretary; and

(6) the Director of the Task Force.

The President, the President pro tempore of the Senate, and the Speaker of the House of Representatives, shall, after consultation with Indian tribes, ensure that members of the Advisory Committee are broadly representative of all Indians of the United States.

(b) FUNCTION.—The Advisory Committee shall assist and advise the Task Force in planning and conducting the Conference.

(c) ADMINISTRATION.—

(1) The Director of the Task Force shall serve as vice chairman of the Advisory Committee. The Advisory Committee shall elect the chairman of the Advisory Committee from among those members of the Advisory Committee who are not full-time Federal employees.

(2) The Advisory Committee shall select the chairman of the Conference.

(3) The chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Task Force in carrying out its duties.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation at a rate fixed by the President that does not exceed the rate of pay specified at the time of such service for grade GS-18 under section 5332, of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code.

25 USC 2001 note.
Grants.

SEC. 5507. GIFTS AND TITLE TO CERTAIN PROPERTY.

(a) GIFTS.—The Task Force shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Task Force in furtherance of the Conference. Such grants, gifts, or bequests offered the Task Force, shall be paid by the donor or his representative into the Treasury of the United States in a special account to the credit of the Conference for the purposes of this part.

(b) DISPOSITION OF MATERIALS.—Materials and equipment acquired for the use of the Conference, or for the Task Force, shall be transferred to the Bureau of Indian Affairs after the close of the Conference.

25 USC 2001 note.

SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1988, 1989, and 1990 such sums as may be necessary to carry out this part. Such sums shall remain available until expended.

TITLE VI—GENERAL AND MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS EDUCATION PROVISIONS

Subpart 1—Education for the Homeless

SEC. 6001. TECHNICAL AMENDMENT.

42 USC 11421.

Section 702 of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by inserting at the end of subsection (b) the following: "Each such application shall include an estimate of the number of homeless expected to be served and the number of homeless adults within each of the school districts within the States to be served."; and

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) The Secretary of Education shall, in making grants under this section, give special consideration to the estimates submitted in the application under subsection (b) of this section.".

Subpart 2—Special Grant Program

SEC. 6011. EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK.

20 USC 1441 note.

(a)(1) GENERAL AUTHORITY.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

Handicapped persons.

(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and

(B) individuals with limited English proficiency.

Handicapped persons.

(2) The project funded under this section may include the development of—

Communications and telecommunications.

(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems;

(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

Rural areas.

(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for the fiscal year 1989 to carry out the provision of this section.

PART B—PROHIBITION OF DIAL-A-PORN

47 USC 223.

SEC. 6101. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

PART C—STUDIES

20 USC 2748 note.

SEC. 6201. EVEN START STUDY.

(a) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of a representative sample of programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) CRITERIA.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress the results of such evaluations. The evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

20 USC 3241 note.

SEC. 6202. STUDENT DROPOUT STUDY.

With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under title VI of the Elementary and Secondary Education Act of 1965. The Secretary shall take into account data collected from the national school dropout study and shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be made available to the Congress, State educational agencies, and the National Diffusion Network.

SEC. 6203. STUDY OF STATE OPERATED PROGRAM FOR HANDICAPPED CHILDREN.

20 USC 2791 note.

(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study of the State Operated Program for Handicapped Children under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

Reports.

(2) Not later than January 30, 1989, the Comptroller General shall prepare and submit a report to the appropriate committees of the Congress containing the findings of such study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(3) For the purpose of this section, the term "children" includes infants and toddlers.

(b) STUDY COMPONENTS.—The study shall include—

(1) a description of State and local agencies that participate in the program, the children the agencies serve, and the programs for which the agencies use funds;

(2) how such program is administered by the State educational agency or any predecessor agencies serving as fiscal agents for the States;

(3) the major policies, procedures and practices pertaining to the determination of when a child is considered eligible to be counted under such program; the allocation of funds to agencies, schools, programs and projects within schools; the supplementary nature of the services provided; and authorized use of funds;

(4) the policies and procedures governing the placement of handicapped children, including local educational agency transfer children, in schools and programs and projects receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(5) the relationship between the chapter 1 of title I of the Elementary and Secondary Education Act of 1965 program and parts B and H of the Education of the Handicapped Act (conceptual relationship; comparison of how the two programs are administered by the State educational agency; and a comparison between the programs with respect to the extent to which handicapped children receive a free appropriate public education and such children and their parents are provided the rights and procedural safeguards guaranteed under part B of the Education of the Handicapped Act); and

(6) such other information as the Comptroller General considers appropriate.

(c) FINDINGS AND RECOMMENDATIONS.—The Comptroller General shall include in the report the findings based on the study, a State-by-State analysis for the States subject to the study, together with such recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

SEC. 6204. STUDY ON TUTORING PROGRAMS.

20 USC 2882 note.

The Secretary shall conduct a study of tutoring programs for eligible participants under chapter 1 of the Elementary and Secondary Education Act of 1965 carried out by students in institutions of higher education. In conducting such research, the Secretary shall

Reports.

(1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs are effective if conducted on a volunteer basis or whether it is necessary to offer incentives, such as tuition assistance, academic credit or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) review available evidence on programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

Reports.
20 USC 2973 note.

SEC. 6205. STUDY OF LOCAL USE OF CHAPTER 2 FUNDS.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Act of 1965 shall report annually to the State educational agency on the use of funds under section 1531 of such chapter. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit not later than October 1990 and October 1992 a report to the appropriate committees of the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

20 USC 2951 note.
Contracts.

SEC. 6206. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

From funds available for the purposes of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under such chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

20 USC 2921 note.

SEC. 6207. STUDY OF FUND DISTRIBUTION.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The

Taxes.

study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as the reliability and currency of poverty data used for purposes of program allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. The Secretary shall submit an interim report of such study on June 30, 1990, and shall submit a final report of such study not later than June 30, 1991.

Reports.

SEC. 6208. STUDY RELATING TO WOMEN'S EDUCATIONAL EQUITY.

Reports.
20 USC 3046 note.

The Secretary is directed, not later than September 30 of each of the years 1988 through 1993, to submit to the President and the Congress a report setting forth the programs and activities assisted under part A of title IV of the Elementary and Secondary Education Act of 1965, and to provide for the distribution of this report to all interested groups and individuals, including the appropriate committees of the Congress, from funds authorized under such part.

SEC. 6209. IMMIGRANT EDUCATION REPORT AND ASSESSMENT.

20 USC 3130 note.

(a) Annual Report.—Each State educational agency receiving funds under part D of title IV of the Elementary and Secondary Education Act of 1965 shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under such part. Each local educational agency receiving funds under such part shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress.—The Secretary shall submit biennially a report to the appropriate committees of the Congress concerning programs under such part.

(c) Assessment by Comptroller General.—The Comptroller General of the United States shall review and assess programs conducted under such part. The Comptroller shall submit the findings to the appropriate committees of the Congress by March 15, 1991.

SEC. 6210. ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

25 USC 2016a.

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the appropriate committees of the Congress, the President, and the Secretary by September 30 of every other year a report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of title IV of this Act in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

SEC. 6211. RESEARCH RELATING TO BILINGUAL EDUCATION.

Contracts.
20 USC 3305 note.

(a) Research and Development.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title; and

(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 6212. BILINGUAL TRAINING FELLOWSHIP IMPACT STUDY.

20 USC 3323 note.
Contracts.

The Secretary shall by grant or contract undertake a study of the impact of recipients of fellowships under section 7043 of the Elementary and Secondary Education Act of 1965 on the field of bilingual education. The report shall be submitted no later than December 31, 1991. Copies of the report shall be sent to the appropriate committees of the Congress.

Reports.

SEC. 6213. REPORT ON BILINGUAL EDUCATION.

20 USC 3303 note.

The Secretary shall prepare and, not later than June 30, 1991, and June 30, 1992, shall submit to the appropriate committees of the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of title VII of the Elementary and Secondary Education Act of 1965 and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.

SEC. 6214. JOINT STUDY OF SERVICES.

20 USC 1201 note.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of this Act, a joint report shall be submitted to the appropriate committees of the Congress describing the findings of the study.

Reports.

20 USC 4832 note.

SEC. 6215. REPORT ON PROJECTS DEVELOPED WITH ASSISTANCE FROM THE FUND FOR IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that information regarding exemplary projects that are developed with assistance furnished under part B of title III of this Act are made available to institutions of higher education and State and local educational agencies.

(b) REPORT.—The Secretary shall submit a final report to the appropriate committees of the Congress not later than June 1, 1990. The report shall describe the programs assisted by part B of title III of this Act, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

20 USC 642 note.

SEC. 6216. STUDY OF EFFECTIVENESS OF PUBLIC LAW 815.

(a) GENERAL AUTHORITY.—The Comptroller General shall conduct a thorough study of the need for financial assistance for school construction as authorized by the Act of September 23, 1950 (Public Law 815, 81st Congress). The Comptroller General shall prepare and submit a report on the study required by this section not later than 1 year after the date of enactment of this Act together with such recommendations, including recommendations for such legislation, as the Comptroller deems necessary. Reports.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a) of this section, the Comptroller General shall examine a representative sample of federally impacted school districts of local educational agencies. The Comptroller General shall—

(1) identify the number of children affected in each such school district;

(2) determine the type of school facility needed for such school district; and

(3) determine the estimated cost involved for building or repairing the school facility in each such district.

(c) SPECIAL CONSIDERATION REQUIRED.—In conducting the study required by this section, the Comptroller General shall give special consideration to—

(1) the eligibility criteria used for determining which federally impacted school districts are entitled to Federal funds for school construction,

(2) the criteria used for setting the priorities for the approval of such applications, and

(3) the process for reevaluating the needs of previously approved applicants which are on the waiting list for funds covered under Public Law 815, Eighty-first Congress.

PART D—GENERAL PROVISIONS

SEC. 6301. DEFINITIONS.

20 USC 2701 note.

Except as otherwise provided, for the purpose of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6302. BUDGET ACT PROVISION.

20 USC 2701 note.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 6303. EFFECTIVE DATES.

20 USC 2701 note.

(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect July 1, 1988.

(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act.

(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

(3) The amendments made by section 3403 shall take effect for assessments made after September 30, 1989, with respect to State data.

Approved April 28, 1988.

LEGISLATIVE HISTORY—H.R. 5 (S. 373):

HOUSE REPORTS: No. 100-95 (Comm. on Education and Labor) and No. 100-567 (Comm. of Conference).
SENATE REPORTS: No. 100-222 accompanying S. 373 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 20, 21, considered and passed House.
Dec. 1, considered and passed Senate, amended, in lieu of S. 373.
Vol. 134 (1988): Apr. 19, House rejected conference report; receded and concurred in Senate amendment with an amendment.
Apr. 20, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 28, Presidential remarks.

○

April 26, 1988

HIGHLIGHTS OF H.R. 5

This bill will be known as the Augustus F. Hawkins/Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

The bill extends through 1993 almost every Federal elementary and secondary education program. H.R. 5 also amends these programs and creates several new programs.

The major aspects of the amended programs and the new programs are as follows:

CHAPTER 1 PROGRAM

This program is the largest Federal aid to education program and is amended:

(1) to encourage additional appropriations of $500 million a year over current services in order to serve all eligible children by 1993;

(2) to concentrate $400 million of new funding on the neediest school districts;

(3) to require stronger parental involvement in these programs;

(4) to require schools to show educational progress or to adopt special measures for improvement in conjunction with State departments of education;

(5) to create a special fund to encourage greater participation of private school children in the program whose participation has declined dramatically due to the Supreme Court's Felton decision;

(6) to permit school districts to use 5% of their grants for innovative purposes;

(7) to permit school districts to fund school-wide projects without having to match the Federal money;

(8) to create a new program (Even Start) to jointly educate poor preschool children and their illiterate parents;

(9) to create a new high school remedial education program to teach students the basic skills and to prevent

dropouts and to encourage reentry;

(10) to provide special technical assistance for schools in rural areas;

(11) to require States to identify as State-imposed requirements any provisions which are not explicitly in the Federal law and to consult with a committee of local practitioners prior to publishing proposed regulations;

(12) to bar State regulation limiting school districts' decisions regarding the grade levels to be served, the basic skills areas to be addressed, instructional settings, instructional staff to be employed or other essential support services to be provided;

(13) to require the U.S. Department of Education to respond with written guidance within 90 days to any written request from a State or school district regarding a policy or interpretation; and

(14) to require the Department of Education to convene regional meetings on the new amendments and then to submit proposed regulations to participants drawn from the regional meetings in a process to negotiate regulations for the new amendments.

CHAPTER 2 PROGRAM

This program is known as the "education block grant". It is revised in order to more sharply focus the uses of Federal aid on six areas and to require State departments of education to assist local school districts in implementing more effective schools. The "more effective schools" strategy is a research-based method for organizing schools in order to increase their educational attainment within their current levels of resources.

SCIENCE AND MATH PROGRAM

The current program of assistance to train and retrain math and science teachers is amended to direct more funding to local school districts so that they can more effectively update the skills of their teachers.

FOREIGN LANGUAGE PROGRAM

A new program is created to fund model programs of foreign language assistance. These programs would have to concentrate on critically needed foreign languages.

MAGNET SCHOOLS

The magnet schools program is revised to give a preference for grants from new money to school districts which are not currently receiving such grants. The authorization for this program is more than doubled for FY 1989 in order to encourage this expansion of the program.

WOMEN'S EDUCATIONAL EQUITY PROGRAM

This program is extended in order to carry on with activities aimed at eliminating sex stereo-typing and sex discrimination.

GIFTED AND TALENTED CHILDREN PROGRAM

A new program is created for the education of gifted and talented children. These grants are meant to encourage the adoption of teaching techniques geared to best developing the talents of such children.

ELLENDER FELLOWSHIP PROGRAM

These fellowships are provided to poorer students to permit them to come to Washington as part of the Close Up program. H.R. 5 creates a new supplementary program which will provide the same assistance for older Americans and recent immigrants.

IMMIGRANT AND TERRITORIAL ASSISTANCE PROGRAMS

These programs, which are directed at particular problems facing immigrants and schools in the territories, are also extended.

SECRETARY'S FUND FOR INNOVATION

A new program is established to permit the Secretary of Education to fund innovative programs including tests for academic excellence and technology education. Alternative curriculum schools could also be funded provided that the magnet schools program receives an appropriation of at least $165 million.

DRUG EDUCATION

The drug education program is extended with minor amendments requiring greater accountability.

BILINGUAL EDUCATION

The Bilingual Education Act is substantially revised. The Secretary of Education may fund programs which are alternatives to bilingual education from up to 25% of the money ear-marked for local programs. Additional fellowships would have to be provided to those intending to become trainers of bilingual education teachers.

IMPACT AID

This program is substantially revised in order to simplify the number of categories of eligible children and the payment rates for these children.

ADULT EDUCATION

This program is revised in order to require a greater emphasis on serving the most educationally disadvantaged students. A new requirement is also included that at least 10% of the State's funds must be used for programs for institutionalized individuals. New programs are also created for adult education for those with limited English ability and for education programs to be offered on the worksite.

STAR SCHOOLS PROGRAM

This program which encourages the use of the latest educational technology is also extended. Regional arrangements are encouraged to provide math, science and foreign language programs to more isolated schools.

CHILD DEVELOPMENT PROGRAM

A new program is created as part of the Head Start Act to encourage a comprehensive approach dealing with poor children and their mothers. Medical, social, nutritional, and educational services would all be offered from the time of pregnancy to the time of entry into school.

STATISTICS

The National Center for Education Statistics is upgraded within the Department of Education so that it can provide more reliable and more objective data and be more immune from political pressures.

FUND FOR IMPROVEMENT

A new fund is created to encourage the improvement of schools through grants to teachers and local schools. A particular emphasis is placed upon grants to encourage the cooperation of families with schools.

NATIONAL ASSESSMENT

The National Assessment of Educational Progress is expanded to include additional areas of testing. A limited experiment of State comparisons of data is permitted.

AUDITS

The Department of Education's process for determining audit violations is substantially amended in order to bring more fairness into the process. Administrative law judges would hear cases instead of political appointees, and audits could be modified if there is no substanital harm to a Federal interest or there are mitigating circumstances.

INDIAN EDUCATION

The Bureau of Indian Affairs is forbidden from closing BIA schools without taking into account the views of the communities. Various other administrative requirements are included to improve the operation of such schools. The Department of Education's program for Indians is also extended and that Department is barred from arbitrarily restricting eligibility for such programs. A White House Conference on Indian Education is also authorized.